Death *and* Taxes — Carl Pearlston

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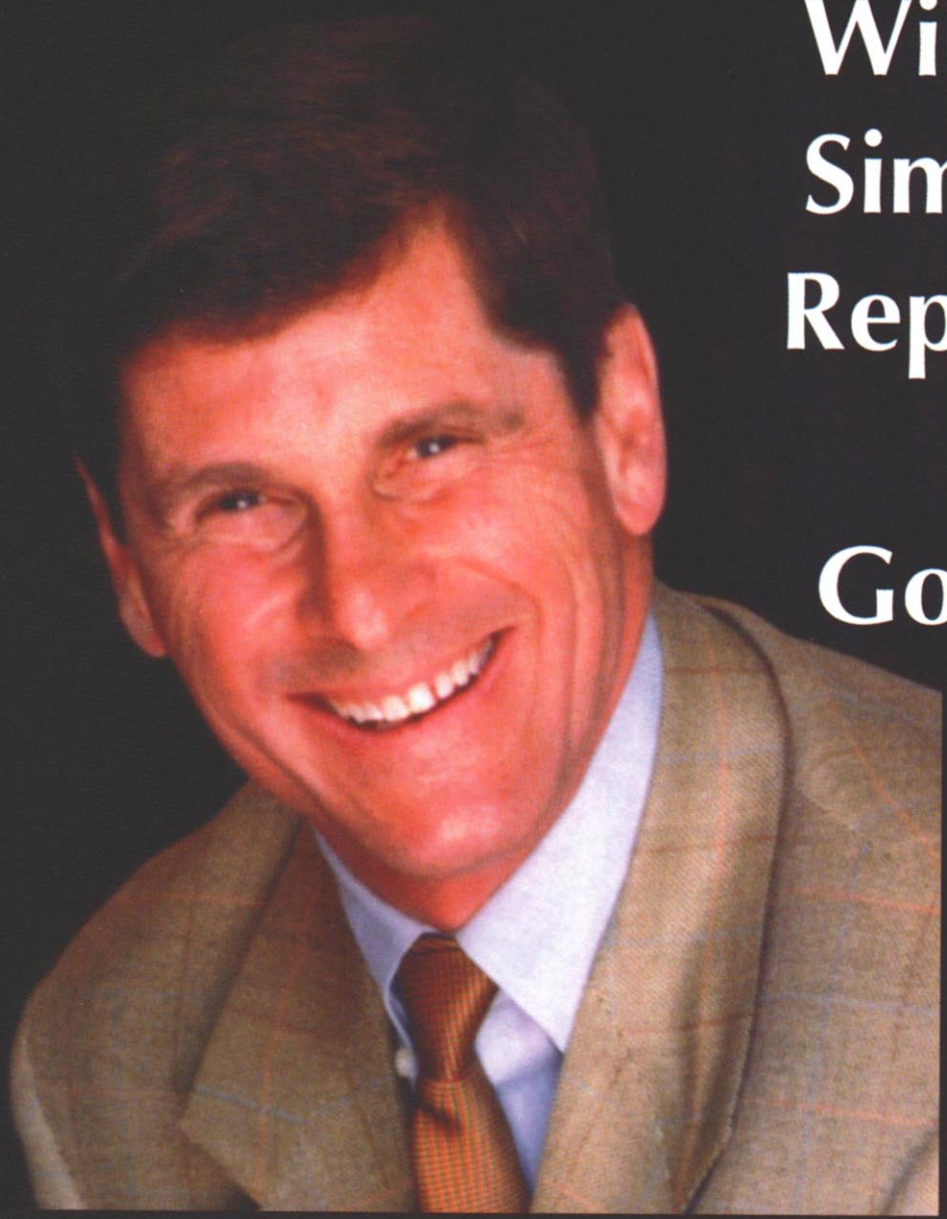
Also in this issue

G.B. Tennyson, Tim Ferguson, William R. Allen, John Kurzweil, James Bemis, Sam Paredes, Mark S. Pulliam, John Campbell

William E. Simon, Jr., Republican for Governor



Two views

An articulate, likable conservative
— William E. Saracino

A 'pragmatic' Republican
— George Neumayr

Ray Haynes sings the
Redistricting Blues

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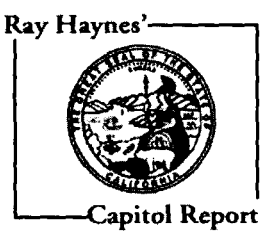

Ray Haynes
Capitol Report — *Mondays*

William E. Saracino
Martini Musings — *Tuesdays*

George Neumayr
Political Observations — *Wednesdays*

James Bemis
Contra Mundum— *Thursdays*

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CALIFORNIA★POLITICAL
REVIEW

JULY/AUGUST 2001 • VOLUME 12 • NUMBER 4

FEATURES

COVER ARTICLE: Introducing William E. Simon, Republican for Governor 18

A Bill Simon Primer — By John Kurzweil

Two Views Bill Simon — *CPR's* expert panel of two provide divergent views to begin filling in the Simon picture.

An articulate, likable conservative By William E. Saracino

A 'pragmatic' Republican By George Neumayr

Budget Busting 1-A By John Campbell 12

Liberal legislators spend massively from capital gains taxes — the state's most volatile source of revenue — for long-term, on-going programs, as though the funds would roll in forever.

Redistricting Blues By Ray Haynes 14

Democrats run the show in the Assembly, the Senate, and the governor's office — but the Grand Old Party may still find a way to gain from the upcoming redrawing of California's legislative and congressional district lines.

Death and Taxes By Carl Pearlston 26

The opposite of a 'sin tax,' the death tax punishes virtue, taxes earnings already taxed when earned, and costs as much — in enforcement and compliance expenses — as it brings in. No wonder liberals love it.

DEPARTMENTS

Correspondence 2

Sacramento Spectator 3

The Law By Mark S. Pulliam 4

The Front Line 5

Facts on Gun Control By Sam Paredes 6

Midnight Economist By William R. Allen 9

The Working Press By Tim W. Ferguson 10

ARTS & CULTURE

Criticus By G.B. Tennyson 30

The Bearable Lightness of Verse — Coming both to mourn and to celebrate the passing of an old friend, albeit not a human one: that modest but precious flower in the garden of poetry — light verse.

Film By James Bemis 35

Summer Serenade — A film that well repays a second look — artfully combining great music with beautiful cinematography. It also features a story that celebrates marriage, family, friendship, courage, and a clearly-drawn battle between good and evil.

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CORRESPONDENCE

Dereg: Prices Down, But So Is Service

In reference to "'Deregulation' Blacks Out" (Walter Soul, *CPR*, May/June 2001), I am conservative in my politics, but I don't think deregulation of an industry is the right answer when it comes to "essential" services like water and power. Taking the example of the phone company. Yes, we have much lower phone bills than before but the service is terrible compared to what it was before the "break-up" of AT&T. I agree, we can make deregulation work through a truly "free enterprise" system and we could have all the power we need at lower prices. However, I believe we will end up paying a much larger "price" in poor service.

Klaus Schiessel
Sacramento

Walter Soul responds

I am not sure what you mean by poorer service. The only part of the phone service that was deregulated was the long distance service, and today we have many choices for our long distance provider. If we don't like the service AT&T provides, we can use MCI/Worldcom. If we don't like MCI, we can use 10-10-220. Each one keeps lowering our prices, and offering more convenient ways of using their service. Heck, if you don't like any of these, you can use a cellphone and call free anywhere in California and a lot of the western states for $30 a month. In fact, since deregulation of telephone long distance, we have more options and cheaper service than ever before.

Bad service is in local phone service, which is still highly regulated. It is more expensive, impossible to get, and never works right, precisely because government limits entry into the market, which prevents competition and consumer choice and keeps prices artificially high.

Whether free markets work is not a question of the service provided, it is a question of how much governments interfere in their operation. Bad service and high prices in water, electricity, and local telephone service are all the result of continuing government interference in the business. (This of course does not address the question of whether electricity or phones are "essential" to anything, since we lived and developed for more than 5000 years without them. They are convenient, important to business, helpful to the economy, and nice to have, but neither is essential to life. I would submit that food is more important, but we don't regulate the price of bread.)

It appears that the government of California, the environmental organizations, and the NIMBY crowd have finally produced an electric power shortage. Their desire to control and run everything and anything that moves in California has produced a monster that will affect the comfort and the pocketbook of every resident of the state for several years.

Does anyone believe PG&E, which has been in the business of producing and delivering electric power for more than 100 years, would not have continued to build power plants to meet the needs of Californians? PG&E couldn't build the needed plants during the last 10 years because the state government/enviro coalition made the building process difficult to impossible. As of now, the state of California has bankrupted PG&E and has decided to have the state build electric power plants. Is this a socialist future?

D.G. Anderson
San Mateo

A Critical Bargain

Criticus, all by himself, is worth the price of subscribing!

Dr. William S. Penn Jr.
Davis

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SACRAMENTO SPECTATOR

Summer in Sacto, and the seemingly endless annual Capitol budget drill. The usual GOP holdout of, oh, 18 to 20 minutes, against another Democrat tax-and-spend spree may turn out a little differently for once. Democrats' big gains last election may actually hurt them now because diminished Republican ranks now include the staunchest conservatives — especially in the Senate, where the winnowing process and the replacement of such dependable cave-ins as Cathie Wright and Dave Kelley with the likes of Tom McClintock and Jim Battin noticeably toughened the GOP spine. Watch for Republicans to hang in for eliminating a quarter-cent sales tax increase scheduled to be imposed July 1. Democrats want the money of course, but can also see that demanding it now could hurt politically next year, in light of years of gorging themselves on fat surpluses and with voters now seeing gasoline, heating, and electricity expenses skyrocket.

The gov's slipping poll numbers have increased interest in potential GOP opponents next year. The *L.A. Times'* George Skelton has already informed Republicans they *must* nominate — surprise! — a liberal, Dick Riordan. Normally, that would be enough to eliminate the former L.A. mayor from consideration, but peeking into his record shows Riordan is a potential liberal treasure-trove beyond, perhaps, even Skelton's imagining.

First, there are his extravagant donations to and endorsements of Democrats — lots of Democrats, in all shapes and sizes, from merely liberal to borderline communists. Bill Jones's campaign informs that Riordan endorsed Tom Bradley against George Deukmejian in 1982 and '86, loaned Bradley $300,000 in '82 and another

$100,000 for '86, has donated nearly $20,000 to Gray Davis over the years including $12,500 in March 2000, endorsed Dianne Feinstein whenever she's run, supported Bill Lockyer for A. G. against Dave Stirling, and supported Barbara Boxer, Maxine Waters, Diane Watson, and John Garamendi — a veritable murderers' row. Deukmejian — ha! — is chairing Jones's campaign.

To put this in perspective, Skelton raised a war whoop over another potential GOP nominee, Bill Simon, having given Davis one donation of *$250* and another to Phil Angelides of *$500!*

Exhibit B: Riordan on issues. During his initial run for L.A. mayor, he endorsed "police sweeps" to confiscate guns — GOP volunteer organizers, civil libertarians, rule of law proponents, and, oh yes, gun owners, take note.

But on fiscal issues at least, Riordan is supposed to be "conservative." Is he? A quick dive into the *CPR* archives uncovers a short piece he wrote for publication in this magazine 'way back in 1991. In it, "fiscal conservative" Riordan blamed our infrastructure and educational decline on "undertaxing." He lamented voters' "Prop. 13 Syndrome" that so frightened gubernatorial candidates Feinstein and Wilson that neither "would dare come out for new taxes, especially not for a reversal of Prop. 13."

He predicted this anti-tax "pull-up-the-ladder (I've got mine) attitude" would increase "the gap between the haves ... and the have-nots" leading to a "drastic" increase in California's "homeless, welfare recipients, drug addicts, and criminals." He concluded ruminating about how closely "California's cities" resemble "the disintegrating life style (for rich and poor) of New York City." Evidently, a lot more than just the usual prudent businessman's "courtesy" to Democrat powers-that-be lay behind all those endorsements, loans, and donations. No wonder George S. is licking his lips.

— A. P. C.

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Mr. Smith Goes to Sacramento

Even Frank Capra's imagination would be tested by the treachery of this tale.

MARK S. PULLIAM

Governor Gray Davis's ongoing mismanagement of California's electricity crisis is understandably crowding all other statewide political news off the front page. This is unfortunate because media coverage of events in Sacramento is marginal to begin with, and lesser debacles deserving public attention are being overlooked. One newsworthy story in particular has been ignored: State Board of Equalization (SBE) Chairman Dean Andal's crusade to overturn the boondoggle $88.5 million attorneys' fee award to a group of law firms (including the notorious Bill Lerach's) that brought a lawsuit to invalidate California's smog impact fee for out-of-state cars being re-registered in California.

A Superior Court judge in Sacramento recently ruled that the $88.5 million award — issued by a panel of arbitrators in November of last year — was unjustified and beyond the authority of the arbitrators. The ruling will be appealed, but it represents a stunning victory for taxpayers, who would otherwise have to pay the outrageous award, which amounts to more than $8,800 an hour for the lucky lawyers involved. This story, while not yet over, is a parable of an out-of-control legal system, an asleep-at-the-switch legislature, and a courageous, Capra-esque figure — Dean Andal — doing battle with the special interests. There are plenty of villains: the greedy lawyers overreaching, as always, to enrich themselves at the public's expense; a corrupt arbitration system in which retired judges facilitate wealth transfers behind closed doors; and a deceitful, feckless governor who signed the law authorizing the result about which he now, belatedly, complains.

The story begins in 1990, when the California Legislature enacted a $300 tax per car on out-of-state vehicles being re-registered in California if they did not meet the state's strict emissions standards. (Cars sold in California have to meet these standards, but not those purchased elsewhere.) The tax, which was of doubtful constitutionality to begin with (since the U.S. constitution does not permit states to "discriminate" in interstate commerce), remained in effect until an appellate court struck it down in 1999. The law was so dubious that before its enactment the state Legislative Counsel opined that it was probably unconstitutional. Why did Legislators pass what they had been warned was an unconstitutional tax? Because they wanted the money. While the law was in force, approximately 1.7 million auto owners paid the unlawful tax, generating more than $500 million in revenue to the state.

The ruling invalidating the law came in a case, *Jordan v. DMV,* brought in 1995 on behalf of four individuals. (Actually, four separate lawsuits were consolidated, which is why so many lawyers were involved.) The lawsuits were not "class actions" — suits brought on behalf of a defined group of people: everyone who purchased a particular product, for instance. The trial judge, Joe Gray of the Sacramento Superior Court, struck down the smog impact fee in October 1997 and ordered a refund. The case was so easy it was decided *before* trial on a motion for summary judgment. But while the trial court ruled correctly on the constitutional issue,

Mark S. Pulliam, California Political Review's *legal issues correspondent, is an attorney in private practice in San Diego.*

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THE FRONT LINE

Exploiting Dems' Weaknesses

California's Republican Party has not been the state's predominant Party since the 1930s, but still has won often, taking every presidential election from 1968 to 1992, and winning the governor's office for Reagan, Deukmejian, and Wilson. How? GOP candidates attracted enough conservative Democrat and independent votes — the Reagan coalition — to prevail statewide.

The recession of the 1990s, which, in this state, resulted in large part from defense spending reductions, drove many traditional Republican voters out of California into Oregon, Washington, Nevada, Colorado, and Arizona. Our gain of one congressional seat following the recent census (down from seven in 1990) reflects this trend. Bickering and hot air about why the GOP has been losing has masked this trend somewhat. Republicans have aggravated matters by fighting among themselves more than working to promote the Party, a second trend that continues today. The June 1 *Washington Times,* for instance, quoted "a state Republican official" discussing San Diego investment banker and key Bush California operative Gerald Parsky. Parsky, the *Times* reported the GOP official saying, "doesn't care about ideology. But I know he is offended by pro-lifers. He told me directly he doesn't want to see the California Republican Party become a Party that gives money to pro-life candidates and consultants."

Someone may want to remind Mr. Parsky not only that the president is pro-life and that pro-lifers form one of the GOP's most hard-working, dependable grass-roots voting blocs, but that the very positions he reportedly finds "offensive" are among the keys to winning new GOP voters.

How can Republicans once more attract Democrat and independent votes? Liberals advise dropping the Party's small government, anti-tax, pro-family philosophy. Others say: appease the media. But these strategies would undermine the GOP base while doing nothing to peel off voters from the opposition by exploiting Democrat weaknesses. To attract the votes of non-Republicans, the GOP must show them it represents them better than the Democrats do. And the only way to do that is to build on the GOP base constituencies — the small government, anti-tax, pro-family voters still in California — by searching out voters in traditional Democrat strongholds who agree with them.

It so happens the Democrat Party is thick with such voters. Polls show that people who attend church regularly are more likely to vote Republican, except blacks and Hispanics. Why? Because Republicans don't reach out to blacks and Hispanics who attend church — not a tough question, although Mr. Parsky may not get it. Fortunately, his friend, George Bush, seems to. The president's faith-based initiatives give California Republicans the opportunity to attract these constituencies — people who agree with many Republican ideas, but don't yet know it.

California Assemblymembers Dave Cox, Tim Leslie, and Pat Bates, and Senators Ray Haynes, Dick Ackerman, Rico Oller, and Jim Brulte are pressing the California Neighborhood Initiative (CNI), a program to reach out to urban neighborhoods with Republican ideas, through faith-based and private institutions. A combination of local control and promotion of non-government programs to help people solve local problems, this Initiative recently saw more than 100 pastors from South Central Los Angeles come to Sacramento to talk to Republican Legislators. That hasn't happened in California in more than eight decades. Watch this effort. It's Republicans' best chance to win new votes. CPR

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it got the remedy wrong. Judge Gray ordered a refund on behalf of all the car owners who had paid the illegal tax, and he later awarded $18 million in attorneys' fees to the *Jordan v. DMV* counsel on the assumption they were responsible for obtaining a refund for all those who'd paid the tax. A group award of this sort is known as a "common fund" recovery. The plaintiffs did not appeal the fee ruling, but the state did.

In October 1999, the California Court of Appeal disagreed with Judge Gray's remedy, ruling that the only taxpayers entitled to a refund were the four *Jordan v. DMV* plaintiffs. Accordingly, those individuals recovered a total of $1,200, plus interest. And even though the Court of Appeal agreed with the trial court that the law was unconstitutional, it reversed the portion of the lower court's decision ordering refunds to taxpayers who were not parties to the lawsuit. The state did *not* appeal the new decision. In a separate ruling, the Court of Appeal reversed the trial court's $18 million attorneys' fees award.

The Legislature recognized the inefficiency of requiring millions of taxpayers to file either separate lawsuits or refund claims with the SBE (the state agency exclusively responsible for tax refunds), and also the inequity of enforcing the four-year statute of limitations to deny a refund to many taxpayers. Lawmakers expedited the refund process by passing a bill (SB 215) appropriating $665 million and waiving the statute of limitations to ensure a full refund, with interest, to *all* taxpayers who had been forced to pay the illegal tax. The bill even provided for a simplified verification and claims procedure. So far, so good. But things always seem to go awry in Sacramento, and this incident proved no exception.

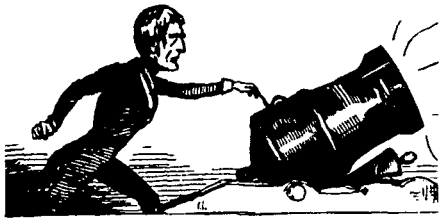
Senate Bill 215 was introduced on January 21, 2000, by Senators Betty Karnette and Joseph Dunn (the trial lawyer who defeated Rob Hurtt). On May 23, 2000, at the apparent behest of a lobbyist hired by Bill Lerach, SB 215 was amended to add these words:

WHAT YOU HAVEN'T BEEN TOLD ABOUT GUN CONTROL

By SAM PAREDES

Who is dumb? Who is dumber? Democrats?, who passed AB 1219 (Frommer), a bill to require all new handguns magically to evolve into "smart guns" by the year 2006. They dream of "Star Wars" type weapons, fitted with technological wizardry: radio tagging, touch memory, remote-control operation, fingerprint recognition, magnetic encoding, and other automatic user identification systems utilizing biometrics, mechanical, and electronic systems. The idea is guns that will recognize "authorized" users. It's no matter to Democrats that the technology is *non-existent,* a fact acknowledged by the *federal government* and 100 percent of the gun industry (even Smith & Wesson). An extensive Government Accounting Office report questioned whether the technology would *ever* be available. But Democrats say they'll simply force gun makers to create the technology.

Or Republicans?, whose leaders were hoodwinked into allowing Democrats to revive a handgun licensing scheme (AB 35 — Shelley) Republicans had *already* defeated in committee. Dems schmoozed gracious GOP leaders into permitting the bill a second, post-deadline (for this year's bills) hearing in the Assembly committee that had killed it once. Speaker Robert Hertzberg repaid Republicans' good sportsmanship by promptly replacing committee Democrats who'd opposed the bill with supporters. *Voilà!* One of the worst anti-gun bills in recent history passed the Assembly.



When will Republicans watch what Democrats *do* rather than listening to what they say? When will they see this is an ideological war? That Democrats don't have Republicans' interests at heart? That, wearing a false smile, they exploit every Republican weakness? When will they see that a minority's one goal — if it is to escape future as well as current irrelevance — is to become a majority? And when will Republicans worry more about serving the constituency that puts them in office — including *especially* the pro-gun community — than about pacifying politicians devoted to their defeat? When?

So please, tell me: Who is dumb? Who is dumber? CPR

Sam Paredes is executive director of Gun Owners of California.

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"In addition, the appropriate level of court costs, fees, and expenses in the settlement of the case of *Jordan v. Department of Motor Vehicles* ... shall be determined through binding arbitration and all of the fees, costs, or expenses shall be paid with funds from the account." On June 2, 2000, without a peep of opposition, Governor Gray Davis signed SB 215 into law. In hindsight, it is easy to see that the arbitration amendment was a Trojan Horse, planted by the *Jordan v. DMV* counsel, probably with Davis's knowledge and approval. (Bill Lerach, the chief beneficiary of the arbitration amendment, was one of Davis's most generous supporters, contributing more than $500,000 since 1998.) The last minute amendment delivered loot to Davis's trial lawyer pals, leaving no embarrassing fingerprints behind.

Pursuant to SB 215, a three-arbitrator panel was quickly and quietly chosen to name the size of fee the *Jordan v. DMV* counsel should receive. The original trial court ruling had been $18 million (on the theory the attorneys had recovered $364 million — a fee of 5 percent of the "common fund"). The award had been reversed, but not because of any direct challenge to it. It was overturned because the "common fund" assumption was wrong. The *Jordan v. DMV* counsel really only recovered $1,200 plus interest. The Legislature, not the lawyers, was responsible for the rest of the refund. And 5 percent of $1,200 is $60 — hardly a matter requiring arbitration. But the fix was in.

The state attorney general represents the people's interest in such an arbitration. But even though an $18 million award had already been reversed as excessive, Bill Lockyer (the self-styled "people's lawyer" and another recipient of Lerach's lavish campaign lucre) waived any limit on the amount of attorneys' fees the arbitrators could award before submitting the matter last November to a panel of retired judges (including former state Chief Justice Malcolm Lucas).

THE "PEOPLE" never had a chance. That publicity hound Lockyer agreed to make the arbitration process confidential should have been a tip-off something might be up. It was. After a cursory hearing, the arbitration panel unanimously awarded a whopping $88.5 million in attorneys' fees, $70 million *more* than the trial court had erroneously awarded. The windfall represented 13.3 percent of a $665 million refund pool with which the *Jordan v. DMV* counsel had had nothing to do. But the plan that worked so well to create a bloated payout for the lawyers backfired politically; the arbitrators had awarded too much.

Davis knew a boondoggle of such magnitude would be politically toxic, so he leaked the result and stole the spotlight by protesting it publicly. Lockyer joined in the act. (Both conveniently neglected to mention their complicity in this train wreck.) The state asked the arbitration panel to reconsider the award. Malcolm Lucas, presumably mindful of his reputation, flip-flopped and repudiated it, but the other arbitrators did not, so the absurd award stood on a 2-1 vote. The majority — retired Judges Bonnie Lee Martin and John Trotter — arrogantly said "The state chose to gamble and lost." The $88.5 million award amounts to $8,800 an hour for the attorneys whose efforts collected $1,200 for four clients by invalidating a law the Legislative Counsel opined in advance was unconstitutional. The plaintiffs' bar insists the award is not out of line with similar cases, proving only that the entire system is broken.

SBE Chairman Dean Andal sued to overturn the ludicrous award. Andal's suit argued that the fee arbitration amendment to SB 215 was an illegal delegation of the Legislature's spending power to unelected, unaccountable private parties. The $88.5 million award, Andal argued, was an unconstitutional "gift" of taxpayer funds. On May 4, 2001, Judge Joe Gray ruled in favor of Andal's position and threw out the $88.5 million award. Judge Gray, who had presided over the underlying lawsuit, reasoned that the $665 million refund amount "was never a part of the judicial case of *Jordan [v. DMV]*. It was achieved to the extent the attorneys had influence on the governor's decision, by lobbying, not 'lawyering.'" Therefore, he said, it is "contrary to public policy to pay persons who lobby the Legislature for a percentage of an appropriation."

Although Davis is doing all he can to claim credit for this victory, the real hero is Dean Andal, who was not associated with the sordid passage of SB 215 and who is not a recipient of trial lawyer campaign contributions. If you think this sounds like a reprise of Jimmy Stewart's role in *Mr. Smith Goes to Washington*, you are right. Graft and corruption do not exist only in the movies. Unfortunately, elected officials showing real courage and virtue are too rarely found outside fiction. Bill Lerach and his cronies will appeal Judge Gray's ruling, of course, bringing further litigation, but this mind-boggling episode shows how much we rely upon principled leaders willing to take a stand, such as SBE Chairman Dean Andal. CPR

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Big Brother, Little Brother, and The Public Finances

When do we see liberals restrain their greed for taking and spending our money? Only when imposing government power is morally justifiable — for defense.

WILLIAM R. ALLEN

MEASURED BY budget, government in this Land of the Free is very big, although it may be getting a bit smaller, sort of. Over the arbitrarily chosen period since 1970, tax collections of federal, state, and local governments have averaged close to one-third of gross domestic product. Expenditures — a more appropriate measure of the size of government — have been, over the 30-year period, even more awesome, as all of government persistently had a budgetary deficit until very recent years.

Even a brief survey of the fiscal scene reveals noteworthy trends and fluctuations in various variables.

1. Federal expenditures rose to more than 20 percent of GDP in the mid-1970s, with Presidents Ford and Carter. They attained greater heights in the early and mid-1980s, with President Reagan. After declining in the later 1980s, the spending ratio rose again with President Bush (the elder), but it fell persistently with President Clinton, from 22.4 percent in 1993 to 18.2 percent in 2000. Democrats are not invariably the biggest spenders, and Republicans are not always prudently miserly.

2. Federal taxation was relatively modest in the early and mid-1970s, with Presidents Nixon and Ford, rose moderately through the late 1970s and mid-1980s, with Presidents Carter and Reagan, and increased further in the late 1980s and early 1990s, with President Bush. President Clinton presided over the continued upward trend with the taxation ratio rising above 20 percent, a level barely exceeded in World War II. The decline in the federal deficit from its peak in 1985 — a phenomenon less significant than purported by most politicians and editorial writers — with government revenue increasing far more than expenditures, stemmed almost as much from the greater proportion of taxation as from reduced proportion of spending.

3. The composition, as well as the total amount, of spending has changed over time. More than 40 percent of the reduction in the federal spending proportion of GDP under President Clinton is found in a smaller part of national output devoted to national defense. Agricultural programs, too, were hit hard in the 1990s, while Medicare and health programs and Social Security flourished.

4. Big government is not confined to the feds. State and local government spending is not puny, almost always more than half as large as federal spending and now nearly two-thirds as large. Since 1970, state/local expenditures have multiplied 11 times, while federal outlays have gone up a little more than 9-fold. Since 1995, state/local spending has increased at twice the rate of federal spending.

5. One non-trivial component of federal spending and typical deficits and of state/local surpluses has been federal grants-in-aid to lower governments. Such receipts of federal funds now run some $245 billion a year, equal to more than one-fifth of all state and local

William R. Allen, who professes prudence in all things in the UCLA Department of Economics, would like to see more economizing by politicians.

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government spending. A large proportion of federal gifts require cost-sharing, and state and local politicians who would not dare fund fully an overelaborate project of low priority will kick in a fraction of the cost for overbuilt, overpriced highway, urban development, mass transit, sewage, water, and airport projects when most of the dollars come from taxpayers in the rest of the country.

6. A series of recent studies of city and state finances have made clear a strong inverse relationship between taxes and economic growth. States with the lowest per capita taxes have seen their real per capita incomes grow significantly faster than the states with the highest taxes. Not only the level of taxes is associated with growth, but also the kinds of taxes. States which have grown most rapidly have had the lowest levels of income tax (encouraging work and saving) and property tax per person (encouraging investment), and they had the highest sales taxes (curtailing consumption and raising the incentive to save and invest). Economic growth is a function of many things, and tax-cutting is not a quick, automatic road to riches. But higher income and property taxes certainly are not a recipe for prosperity — and state and local governments have an affinity for such levies.

7. In February 2001, the Cato Institute published the latest in a series of biennial "fiscal policy report cards" on state governors. Forty-seven governors (those in office more than two years) were graded by 17 fiscal policy variables involving spending and taxing proposals, instituted changes, and budgetary consequences. Promotion of lower taxes and curtailed spending earned high grades. The measured performances varied greatly: two governors (Massachusetts, Nevada) earned an A, 16 (including George Bush, of Texas) received B, 16 received C, 10 received D, and there were three grades of F. The more recently-elected governors tended to get better grades. And Republican governors did a little — but only a little — better than Democrats.

CALIFORNIA'S GRAY DAVIS received the next-to-lowest numerical grade, with a letter evaluation of F. The authors of the report, Stephen Moore and Stephen Slivinski, note: "The mediocre fiscal record of Pete Wilson has given way to the extraordinarily bad fiscal performance of Gray Davis." And this was before the current energy fiasco and its budgetary fallout. Sigh. CPR

THE WORKING PRESS

The Racial Preferences Sweepstakes

Maybe a Republican candidate for governor will challenge this act and seek ethnic Asian support.

TIM W. FERGUSON

IT'S NOW clear that the University of California is going to be the ball game in the racial preference sweepstakes. With only so many choice campus spots and a burgeoning state population of underrepresented groups, a neutral admissions policy cannot long stand in the hothouse of Sacramento politics. Some reporters and papers smelled the importance of this spring's moves by the UC Regents. M. Fisher's article in the *Orange County Register* quoted a student activist making clear that even a steady enrollment percentage of such minorities for the system as a whole — such as has been maintained despite the caterwauling over Proposition 209 — is not enough.

Every campus, including Berkeley, UCLA and San Diego, the *crème de la crème,* must show something close to proportional representation of the California

Tim W. Ferguson is California Political Review's *press critic.*

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population. This has long been the Tom Hayden line and it is now getting mainlined into the debate. The terminally softheaded Regent Bill Bagley offered as how the previous no-preference policy has "ruined our reputation and left the impression that this board doesn't want qualified minorities." Of course, the most qualified minorities (as a group) are Asian, and they are the biggest losers from preferences.

The electric-power issue is getting the big notice now. But the mistakes there are baked in the cake. The most critical choices Gray Davis makes henceforth are those for the Regents. We know where Democrats in the Legislature will line up. Maybe a Republican candidate for governor will challenge this act and seek ethnic Asian support.

♣ ♣ ♣

Willie Brown mad at the *San Francisco Chronicle?* Yep, and how! The paper, under its old ownership, was Da Mayor's lapdog, but the transfers from the old *Examiner* under Hearst Corp. ownership have gone right back to bird-dogging Brown and his petty corruptions. Result: demonstrations against the paper led by black preachers and other street operatives for the mayor's political machine. Very nasty and racially-tinged rhetoric, enough even to shock liberal *Chron* columnist Rob Morse. Maybe Willie is feeling the heat, especially with the tech collapse pulling the planks out from under The City's bubble boom.

♣ ♣ ♣

Layoffs in a newsroom? Shocking stuff. Used to be that newspaper reporters had a form of tenure, as long as they were reasonably sober, didn't plagiarize, and occasionally used the spell checker. Now that companies like Knight-Ridder operate more like any other publicly-traded corporations, headquarters looks to reduce the headcount when ad revenues dry up. Result: the publisher of the *San Jose Mercury News* grandly fell on his sword rather than submit to such economies, but soon not only was he history but his staffers began to drop as well. No avid reader of the press likes to see the ranks of capable journalists thinned out, but the current crunch only heightens the anticipation that one day some California press lord will decide it might be good marketing to try a take on stories that vary from the mainstream dogma — the model, again, being the success of the Fox News Channel. The thought of appealing to a conservative readership, however, would probably lead some of our bigger publishers to choose self-immolation first.

♣ ♣ ♣

Readers of the *Los Angeles Times* cannot help but be struck with how much more news seems to be making the paper under its new lords from the Tribune Co. Amazing what a redesign and some renewed commitment to reporting can make possible. But the space has to come from somewhere. Big losers are a number of formerly high-profile, if low-content, columnists. Sacramento pundit George Skelton got bumped from A3 with a mug shot to inside the California (*nee* Metro) section, tucked, unillustrated, in a corner. The self-styled Latino affairs columnist on the front of Metro, Agustin Garza, was shipped off to some other assignment. He was not alone; the air seems to have been let of out of multiple local-section gasbags. High-priced recruit Steve Lopez from Time Inc. is the great exception in the new order; his writing has an edge but the jury remains out. Meantime, for those who buy the paper for news, these are the best of *Times.*

♣ ♣ ♣

The *Times'* T.J. Simers is a sports columnist not afraid of an earthy reference. Recently he joked about the lesbian following that some women's sports enjoy. Inappropriate, scolded TV sports prig Keith Olbermann, who said Simers should be canned. Soon after, it was Olbermann who was out at Fox.

♣ ♣ ♣

Not Otis Chandler again! Yes, a full-length biography of the patron saint of the *LA Times* newsroom whiners. Actually, Otis, on a personal level, doesn't emerge saintly in Dennis McDougal's *Privileged Son.* He is so caught up in himself that he alienates much of his family and neglects his cherished newspaper. But to get that far you have to plow through McDougal's standard-issue history of the paper and its benighted past, which, according to this version of events, ended when Otis came in, kicked the Republicans out, and put in the middle-of-the-road team that gave us Paul Conrad and a bunch of reporters who shared the cartoonist's politics if not his wicked humor. Close readers will enjoy spotting the political howlers in this Perseus Publishing book. Start with this one: the old *Times* delighted in the "crucifixion of former State Department official Alger Hiss." CPR

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HOW NOT TO ALLOCATE TAX DOLLARS

Budget Busting

1-A

LIBERAL LEGISLATORS SPEND MASSIVELY FROM CAPITAL GAINS TAXES — THE STATE'S MOST VOLATILE SOURCE OF REVENUE — FOR LONG-TERM, ONGOING PROGRAMS, AS THOUGH THE FUNDS WOULD ROLL IN FOREVER.

Over the last few years, the biggest problem with the state budget has been what to do with all that additional money received over what came in the previous year. In fact, the spending of California's general fund has nearly doubled in the six years since the depth of the recession in 1994. More recently, the pace of revenue increases has been even greater, with a rise of 30 percent in just the last two fiscal years.

BY JOHN CAMPBELL

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This raises the obvious question: why hasn't state government returned more money to the people in the form of a tax cut or rebate? Instead, the governor's budget proposes a $1.2 billion tax increase on the general public and only $108 million in targeted tax reductions.

THE ARGUMENT that some of this revenue windfall should have been shared with the people is almost irrefutable. And it is even more compelling to argue that a tax rebate should be passed to offset some of the increased costs of electricity, natural gas, and even gasoline that families and businesses are absorbing due to the governor's and the Legislature's inaction and wrong action. But Democrat profligacies seem boundless. They continue to invent programs to spend almost whatever increased revenue comes in.

But while their taste for spending seems insatiable, these Democrats show little or no interest in where the money they spend comes from. Much of the state's recent lavish revenue growth is the result of growth in the economy, in its population, and in incomes of Californians. But a much-overlooked component of state revenue growth is the impact of capital gains taxes.

California is one of the few taxing jurisdictions on earth that gives absolutely no rate preference to capital gains income. That means that profits from the sale of stocks or a piece of real estate are taxed at the same rate as any other form of income. Also, more than 60 percent of Californians now own stock in some manner. This is somewhat higher than the national average. Add to that substantial increases in all the stock market averages the last few years and you have a recipe for lots more state revenue. So much more revenue, in fact, that 15 percent of the entire state budget last fiscal year was revenue from capital gains taxes.

In a sense, you could say all the last few years' surpluses came from the rising stock market. There are other sources of capital gains: real estate and small business sales, just to name two. But the fact remains that Californians paid $13 billion in taxes on stock options and the sale of stocks last year.

California is one of the few taxing jurisdictions on earth that gives absolutely no rate preference to capital gains income.

Fast forward to today. Have you noticed the stock market averages lately? They aren't up so much any more. Most have fallen dramatically from their highs from the spring of 2000. The talk is all of stock options being "under water." Unless there is a huge recovery in the market before the end of 2001, these capital gains revenues to the state will drop — significantly. Of course, anything can happen in the market — that is exactly the point. The most volatile source of state revenue is capital gains. Yet, liberals in state government commit revenues from the markets to long-term, ongoing programs as though they will continue forever. Would you increase your family's monthly mortgage payment for 30 years because of a one-year bonus from work? Of course not. Instead, we should acknowledge the capricious nature of these revenues and not plan ongoing expenditures relying upon them.

This year we will see the first projected decline in capital gains tax revenue in several years. Prepare yourself for the wailing of those who have been larding the budget with ongoing programs that now have lost their funding source. Prepare for a call for increased taxes. And prepare to be called callous when you explain that we are already overtaxed and that these programs should never have been instituted in the first place relying upon so unstable a revenue source.

OUR STATE surplus and the stock market are inexorably intertwined. Liberal programs are dependent on the exercise and prosperity of capitalism — a difficult paradox for many Democrats, which may explain the whining you will hear. CPR

John Campbell represents California's 70th Assembly District (Irvine). He is a member of the Assembly Special Committee on Energy Cost and Availability and the Oversight Committee on Electrical Energy.

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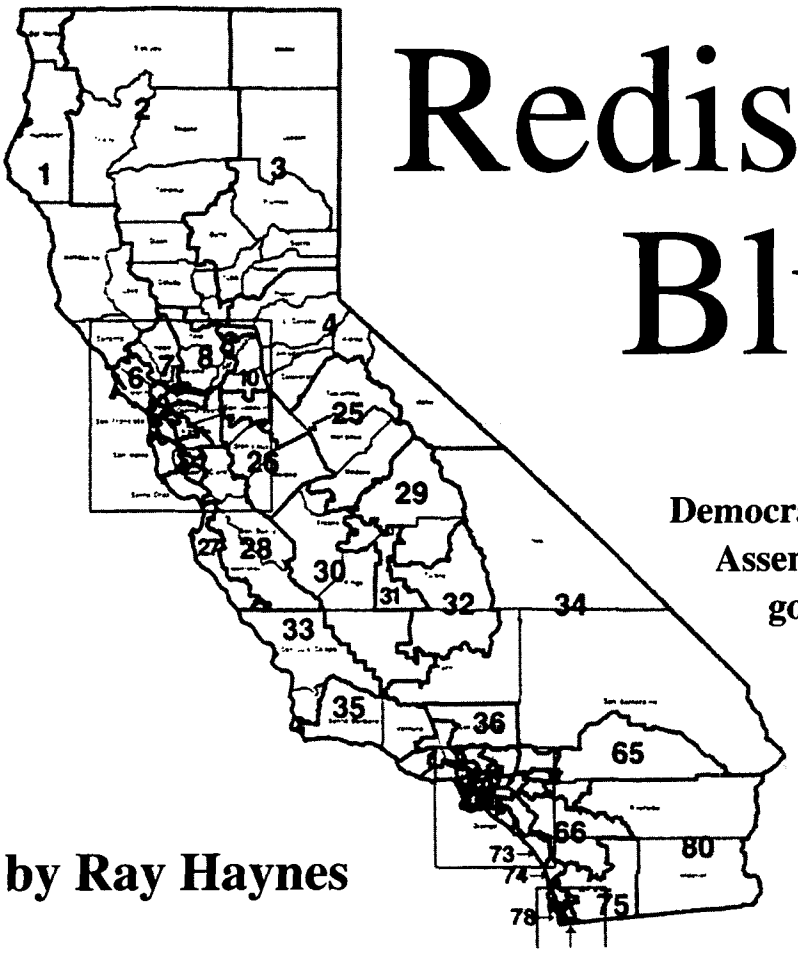

Redistricting Blues

Democrats run the show in the Assembly, the Senate, and the governor's office — but the Grand Old Party may still find a way to gain from the upcoming redrawing of California's legislative and congressional district lines.

by Ray Haynes

NINETEEN FIFTY-EIGHT was a watershed year in California politics. Before 1958, Republicans controlled both legislative houses and the governor's office for the entire twentieth century, except for a few years in the late 1930s. In fact, in 1932, Republicans held 73 of the Assembly's 80 seats and 35 of the Senate's 40 seats. In 1930, California Republicans accounted for *73 percent* of all registered voters; Democrats stood at a lowly 20 percent. By the end of the 1930s, however, Midwestern and the Southern migration to California had increased Democrat registration here to 59.7 percent. Republicans had fallen to 36 percent. But because they controlled the redistricting process in 1940 and 1950, Republicans continued to control the Legislature. In 1958, Democrats won control of both legislative houses and the governor's office, giving them complete control of redistricting for the first time in the 20th century. They used that power wisely.

Redistricting — the redrawing of congressional and legislative district lines, as distinct from reapportionment, the process by which Congress's 435 House seats are divided among the states — is the ultimate partisan process. Everyone knows that the first

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vote of any elected official, the vote choosing the leadership (either the Assembly Speaker or the Senate President Pro Tempore) determines the make up of the committees of the house in which they serve. That first vote determines the fate of thousands of policy ideas in that house. And redistricting, more than any other legislative act, determines which party will actually hold the majority.

Simply put: Democrats will find it difficult to protect all of their incumbents, much less draw lines that will pick up seats in Congress or either legislative house.

REDISTRICTING IS also the sole province of state legislatures throughout the country. The only time a member of Congress actually cares what his local state legislator thinks is when that legislator is thinkin about that Congressman's district. The Congressional lines drawn in the 50 state legislatures and signed by the 50 governors tremendously influence control of the House of Representatives. A lot rides on redistricting.

Since 1958, California has run through five redistricting cycles. The first was 1960, pursuant to the census that year. The second was 1966, following the U.S. Supreme Court's one-man, one-vote decision. The others were the census years of 1970, 1980, and 1990. In each of these years, Democrats controlled the Legislature. In 1970 and 1990, Republicans controlled the governor's office. It is important to remember these facts when considering the California Republican Party's current redistricting problem (the same problem Democrats faced before 1958).

Whenever, *since* 1958, Democrats controlled the entire process, they drew lines insuring themselves complete control of the Legislature and helping insure Democrat control of Congress. In 1980, Republicans placed a referendum of the Democrat redistricting plan on the 1982 primary ballot and argued that, until the people voted the redistricting plan up or down, the old legislative district lines should remain in effect. However, even though the state Constitution says the qualifying of a referendum stays the effective date of a statute, a 4-to-3 majority of the Democrat-appointed state Supreme Court held that the Legislature was to be elected under the new, Democrat-drawn 1980 lines. (This decision, written by Rose Bird, was so brazenly unconstitutional that even liberal democrat Justices Stanley Mosk and Otto Kaus dissented, calling it "an official alignment of the court with one side in a partisan dispute as to which we should remain scrupulously neutral.")

The voters passed the referendum in June, but with the pro-Democrat gerrymander in place anyway — thanks to the Bird Court — the November election, predictably, produced a Democrat majority. (A "gerrymander" is a district or set of district lines drawn specifically to favor one candidate or group of candidates — all Democrats, say, or all incumbents — at the expense of the opposition, and of the democratic process.) That new Democrat majority then drew a new gerrymander to replace the one the voters had rejected, completing it quickly, by December 1982, so departing Governor Jerry Brown could sign it before newly-elected Governor George Deukmejian took office. The new new lines, of course, benefited Democrats once again.

CONTRAST THAT with the 1970 process, when Governor Ronald Reagan vetoed the Democrat-drafted plan, and threw redistricting into the Supreme Court. Then, the Democrat-dominated Court claimed they did not have enough time to draw up a plan for the 1972 election, and required that it be held under the 1966 lines, which had been drawn up by a Democrat Legislature and signed by a Democrat governor. Of course that didn't work for the three new Congressional seats, so the Court held that the '72 lines for Congress, drawn by Democrats, would be used, even though Governor Reagan had vetoed those lines. Once again, the entire process ben-

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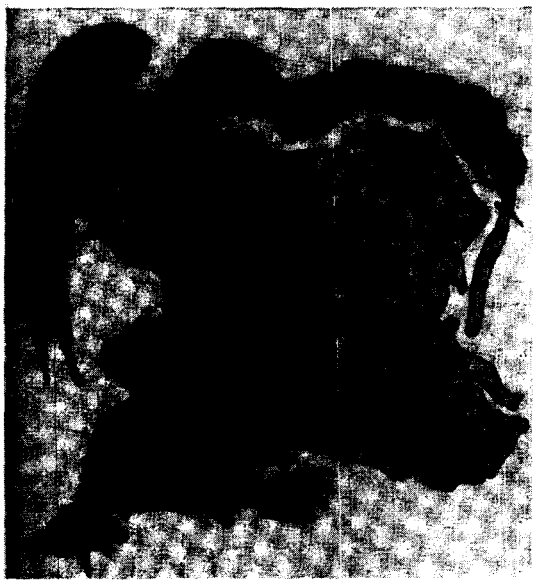
efited the Democrats. Interestingly enough, the Court completed the 1970 process in time for the election of 1974, the Watergate year. Democrats returned to the 1975-76 legislative year with 57 Assembly seats, three more than the two-thirds necessary to approve the budget, and a Democrat governor, Jerry Brown. The era of the leftist Democrat in California had arrived.



The original 'Gerrymander,' 1812.

In 1990, Governor Pete Wilson vetoed the Democrat plan. This time, the Supreme Court, with most of its members now appointed by Republicans, drew the lines. Unlike the Democrat-dominated courts in 1970 and 1980, however, the Republican Supreme Court tried to make the plan "fair" to both parties, according to voter registration. Thus, at no time since the Democrats' 1958 landslide have Republicans been in a position to impose their political will on redistricting.

This year, California Republicans again hold the position they occupied in 1960, 1966, and 1980: Democrats control both legislative houses and the governor's office. With this complete control, if history is any guide, Democrats will be able to ensure themselves control of the Legislature for yet another decade.

That is not to say the Democrats' job will be easy. The 2000 election, severe loss that it was for California Republicans, had its positive side. The very gains Democrats made in the state's congressional, Assembly, and Senate delegations have greatly complicated the job they face in redistricting this year. Simply put: they are going to find it difficult to protect all of their incumbents, much less draw lines that will pick up seats in Congress or either legislative house. It is very hard to draw any map, given current registration figures, that will leave Republicans worse off than they are now in terms of the total number of legislative and congressional seats they hold. Some argue that Republicans' secret 2000 strategy was to lose so many seats that Democrats couldn't redistrict without fighting among themselves. If that was the idea, it succeeded.

And Democrats have another headache in the shifting power bases within their Party. For years, Democrats' old guard left wing was dominated by the Burton (both Phil and John)/Brown (Willie) San Francisco machine and the Howard Berman/Henry Waxman Los Angeles machine. These two operations fought with each other for control of the Party's money and organization. Their best known fight was the 1981 Berman/Brown Assembly Speakership battle. The winner was decided when Republicans joined Willie Brown (thinking him the weaker candidate) to make him Speaker. It seemed the smart thing to do at the time. Now we know it was another great Republican blunder.

This traditional fight in the Democrat ranks, however, has been complicated by the election of an increasing number of Hispanic legislators the last 10 years. An ethnic/power divide has opened within Democrat ranks, becoming a fight between the Hispanics and everyone else. All of California's non-Latino white Democrat congressmen south of the Tehachapis are Jewish. Many of them represent districts with large Hispanic populations. The immediate problem is that Hispanic legislators' political careers will not last beyond term limits unless congressional districts are drawn that will elect Hispanics. That, in turn, will require some carving up of areas currently represented by Jewish Democrats.

The last time a Jewish Democrat faced off with an Hispanic Democrat in a district dominated by Democrat Hispanic voters, the Jewish Democrat, Richard Katz, lost a state Senate seat to the Hispanic Democrat, Richard Alarcon, even though Katz had been a long-time loyal soldier in the Democrat cause and even though Party leaders considered Alarcon an "upstart." Hispanic Democrats' willingness and ability to challenge the old order has the old guard worried. The Hispanics know the one way to increase their power is to draw districts benefiting Hispanics. And they appear to be willing to live with the loss of a few of the old guard's seats, if that's what it takes to achieve their goal.

That is the redistricting fight's wild card. It is Republicans' only chance to make a deal. The numbers

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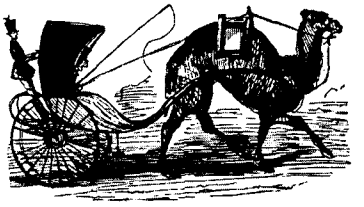
make it clear the Hispanics must join with Republicans to win. But Democrat Senate Leader John Burton hopes to prevent that from happening. He hopes to capitalize on his own considerable experience, and the relative inexperience of Hispanic Democrats, to overcome Hispanic Democrats' desire for more Hispanic congressional seats. He has hired Michael Berman, Howard Berman's brother, to oversee the drawing of the maps from the Senate side.

Burton's victory strategy is to make the most of Berman's connections, while cutting a deal with incumbent congressional Republicans, to put together an unstoppable coalition for new lines that protect the old-line Democrat power structure in the state.

But in the Assembly, Hispanic Democrats facing short term limits are turning longing eyes to possible "new" Hispanic congressional seats that an alliance of Democrat Hispanic and Republican legislators might bring.



Hispanic Democrats facing short term limits are turning longing eyes to possible 'new' Hispanic congressional seats that a Democrat Hispanic/ Republican alliance might bring.

The situation, of course, is not without complications for Republicans, especially those in Congress. Legislative Republicans believe a Latino/GOP deal could add three or four Republicans to the state's congressional delegation. These new GOP seats would come from areas such as the Inland Empire and the San Joaquin Valley. Democrat Representative Cal Dooley's Hanford-area district, for instance, shows increasing Republican registration. But that offers no solace to GOP congressmen like Steve Horn who see *decreasing* Republican and increasing Hispanic registration in *their* districts. A plan that recognizes these demographic changes honestly can increase Republicans in Congress and set off a fight among Democrats, but might cost a few current GOP congressional incumbents their seats.

A rumor is making the rounds that Representative Bill Thomas of Bakersfield, in an effort to avoid any such "loss" of incumbent Republicans, has cut a deal with Representative Howard Berman to have Berman's brother draw congressional lines that protect both parties' incumbents (including Democrat Jewish members) at the expense of potential Republican gains in new areas and Hispanic Democrats. But Hispanic Democrats control redistricting in the Assembly. In short, a war of epic proportions is quietly brewing behind closed doors in Sacramento and Washington. A fortunately unsuccessful gambit Thomas played a while ago appears to lend believability to the rumors about him. He tried to change state Republican Party rules to require GOP legislators to vote for a plan approved by California's Republican congressmen. Thomas's proposed punishment for breaking the rule was that the violator would be purged *from* the Party and opposed *by* the Party in the next election. In other words, legislative Republicans voting yes on a plan to elect more Republicans to Congress could have found themselves purged and opposed by their own Party if the state's congressional Republicans preferred an incumbent-protection plan over one increasing Republican numbers. The state Party wisely rejected the proposed rule, but only after an ugly, divisive fight.

The redistricting end game is not yet known. We *do* know the Democrats are in a fierce, although quiet, internal battle. Democrat Assemblyman Juan Vargas is in a fight with congressional Democrat Bob Filner. Assemblyman John Longville recently accused Michael Berman of deceiving Democrat Assemblymembers about the Senate's redistricting plan. The Legislature, including its Republican members, is in for a wild ride the next several months. Who knows how things will turn out? If the electricity crisis, budget crisis, water crisis, housing crisis, and transportation crisis continue to spin out of control, *and* Republicans play their cards *just* right, district lines in next year's election might actually end up better for the GOP than they are now. CPR

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Introducing William E. Simon Jr.

A first look

by John Kurzweil

Bill Simon is not a politician — yet — not even a citizen-politician, as Ronald Reagan was when he first ran for public office — coincidentally, California governor. Even before his electrifying 1964 speech for Barry Goldwater, Reagan had honed his political views through years of national political speaking tours and service as head of the Screen Actors Guild at a time the guild and its long-suffering members were targeted by an unusually intense, although only typically demented, wrathful, and destructive takeover campaign staged by American communists.

Bill Simon has no such politically-refining history, and so is difficult to categorize, at least according to standard philosophical markers. That means he may prove unpredictable, but not that he is either an empty vessel or unknowable. We can't say yet precisely the sort of governor he will be should he be elected, but his biography tells a fair amount about Simon the *man,* not a bad place to begin considering the sort of political leader he might someday become.

Bill Simon Jr. is son of Nixon and Ford Treasury Secretary William E. Simon, a man distinguished for many things, including his strong opposition to Nixon's foolish price controls and his pivotal role in convincing American Olympics movement leaders to boycott the Moscow Olympiad to protest Soviet butchery in Afghanistan. He thus took on not only Nixon and Brezhnev but even the *New York Times* — a son of so much tough principle deserves attention.

In 1988 Bill Simon Jr. co-founded the private investment firm of William E. Simon & Sons with his father and younger brother. The firm's investments include PAXTV, a family-friendly broadcast network free of graphic violence, sex, and inappropriate language. Simon is involved in developing a wide range of real estate properties, including downtown San Francisco's high-growth multimedia and information technology district.

This is Simon's second successful career. Earlier, after earning his Juris Doctorate at Boston College Law School, he worked at the prestigious Davis, Markel, Dwyer & Edwards law firm, and subsequently served as Assistant United States Attorney for the Southern District of New York under then-U.S. Attorney Rudolph Giuliani. His interest in preserving rule of law is indicated by his service as a Director of the California-based Criminal Justice Legal Foundation, a non-profit public interest law organization that defends crime victims' rights. Simon is also a member of the Heritage Foundation's board.

He is vice-chairman of Catholic Charities of Los Angeles, a social service organization that works toward supporting families, reducing poverty, and building communities. He is chairman emeritus of Covenant House of California, a crisis shelter for homeless and at-risk youth that has provided more than 18,000 nights of care during the last year to California's most vulnerable children. Simon has donated much time and financial support to the Children's Hospital of Los Angeles, where he was a member of the Board of Regents, and serves as co-chairman of the William E. Simon Foundation.

The upcoming campaign will begin to fill in the gaps in our understanding of Simon's political *persona.* In the meantime, his very lack of a political past and the facts conveyed in his biography justify several important and reassuring, albeit negative, conclusions about him. They may be summed up by saying Simon is *not* a left-wing social misfit, which sets him dramatically apart from those individuals constituting the dominant faction in California's Democrat Party.

That is to say, we can be confident Simon does not hate the institutions of the family or religion, the building blocks of our civilization, that he isn't embarrassed by George Washington or the Declaration of Independence or the spirit of human liberty and individual dignity and rule of law around which our nation was founded, that the sight, say, of people enjoying the freedom of driving their own cars does not make him yearn to see them instead herded into public transportation, and that he is not visibly pained and made miserable at the thought of a home owner deciding for himself what he will do with his property, of the Boy Scouts exercising their religious and associational freedoms, or of school children being taught that some things actually *are* true: 2+2=4, c-a-t spells cat, and so on.

That is, we have good reason to believe that non-politician Simon is a normal, well-adjusted citizen, who has worked successfully with people to build a wide variety of things, some of them hugely impressive. His are real life achievements, not the fraudulent make-believe of government "solu-

John Kurzweil is CPR's *editor.*

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tions" to equally fraudulent "problems" the bureaucrats and ideologues don't want "solved" in any case.

Thus he is someone the misfits — the slavishly politically-correct pundits, for instance, at the *Bee,* the *Times,* etc. — instinctively know they can't trust, can't consider politically reliable. In this state, at this time, that is no small thing to know about anyone anywhere within striking distance of our state's top political job. CPR

TWO VIEWS OF BILL SIMON JR.

An articulate, likable conservative

By William E. Saracino

One of the few advantages to getting older — hint, I was born during the Truman administration — is the sense of perspective that comes with age. It is that perspective that causes me to laugh when I hear the current lamentations about the hopeless situation in which the GOP finds itself here in California.

Upon hearing that now all too familiar refrain, I retort with the political equivalent of the "Why, in my day we had to walk five miles through snow just to get to school" lecture of parenting legend. My lecture is equally succinct: My first political experience was working, as best a high school freshman could, for Barry Goldwater's 1964 presidential campaign. Goldwater received 37 percent of the vote, carrying only six states. The Republicans were reduced to 32 Senators and 143 ! members of the House. Here in

William E. Saracino is a member of California Political Review's *editorial board.*

Unlike Bill Jones and Dick Riordan, two possible Republican opponents to Gray Davis next year — both with long records in politics — William E. Simon Jr. presents an almost completely unknown political quantity. *CPR's* expert panel of two here provide divergent views to begin filling in the Simon picture.

A 'pragmatic' Republican

By George Neumayr

To the blinkered California press, anyone to the right of Dianne Feinstein resembles Francisco Franco. This explains the press's lazy description of William Simon as a "conservative." In truth, Mr. Simon is a pragmatic Republican with no intention of running an ideologically conservative campaign.

I interviewed Mr. Simon in late May and found much to commend in him. He struck me as an accomplished businessman, a good citizen, and a strong family man. But I would not describe him as a passionate conservative. He seemed either vague or agnostic on many issues important to conservatives, and he made it plain that moral issues will play little to no role in his campaign.

In an attempt to place him on the Republican spectrum, I asked him if he voted for John McCain or George Bush in last year's Re-

George Neumayr is a member of California Political Review's *editorial board.*

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Saracino

California he managed a mere 35 percent of the vote, carrying only five small counties in the Sierra foothills. The GOP contingent in the Legislature was as anemic as their brethren in Congress.

When *that* is your first exposure to politics, you are able to put bad times or down cycles in proper perspective. This 1964 debacle had come on the heels of Richard Nixon's failed campaign for governor in 1962. The man who vanquished him — Governor Pat Brown — was seen as a giant killer, unbeatable for re-election in 1966, and a possible 1968 Democrat candidate for president or vice president. The Republican Party was given up as lifeless and hopeless by most, and certainly by all of the media and chattering class "informed opinion." According to the "experts," the only hope — if indeed there was any — for revival of the GOP was a sharp turn to the left. Conservative "extremism" and "divisiveness" had to be discarded at all costs. Unless the Republican Party promptly repudiated conservatism and all its acolytes, the GOP was doomed to go the way of the Whigs.

Is any of this starting to sound familiar?

History, of course, had other plans for the Republican Party and the conservative movement in 1965 and 1966. It seems that one brave man with convictions — an outsider to most of the political process — had other ideas. He did not believe the GOP was dead, and did not believe the answer to its revitalization lay in a sharp turn to the left. His name was Ronald Reagan.

Bill Simon eschews any comparisons to Ronald Reagan, whom he describes as "my hero." He is right to do that, as the wait for the "next" Ronald Reagan will be longer than the wait for Godot. Ronaldus Maximus was a once-in-a-lifetime phenomenon, and searching for the next Reagan is not only futile, but distracting from the serious work that needs to be done for the GOP and the conservative movement. However, Mr. Simon and Reagan do share some intriguing similarities. As already mentioned, they are both political outsiders. Mr. Simon, like Reagan, has a solidly successful career in the private sector. He shares Reagan's belief in private sector solutions, not just to economic questions, but to social ones as well, witnessed by his service on the boards of Children's Hospital, Covenant House, and Catholic Charities. Like Reagan, he understands the central, vital place that the family occupies in American culture, and the need to protect it from the long arm of instrusive government. He share's the Gipper's deep belief in the sanctity of life, and he is a passionate believer in the superiority of the free judgement of free citizens over the dictates of the nanny state. And he doesn't believe the GOP is a lifeless corpse or that its future is tied to wholesale abandonment of principle.

Any questions about his place on the political spectrum should be answered by his service on the board of the Heritage Foundation. It was Heritage, remember, that supplied a great deal of the intellectual ammunition for the Reagan White House. Its board of directors is no place for the faint of heart or weak-kneed.

Having had the opportunity to spend some time with Bill Simon, I can say that he shares another, politically vital, quality with Ronald Reagan. He comes across as immensely likable and genuine. He is bright, a quick study, and articulate. Also like Reagan, he puts his listeners at ease and seems to "connect" effortlessly. I spent about two hours with him in what was essentially one-on-one conversation and came away convinced that (a) he has the potential to develop into an exceptionally strong candidate and (b) he shares our mainstream conservative values.

Is he another Reagan? Of course he isn't, as no one can be. Is he the best choice for conservatives in 2002? Without a doubt.

The alternatives — Bill Jones and Richard Riordan — are simply no alternatives at all. I happen to know and like Bill Jones. He is, with-

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Neumayr

publican primary. I received an astonishing reply. He said that he couldn't remember. How many conservative Republicans do you know who can't remember their vote in that heated California primary? The primary, after all, contained significant ideological meaning. George Bush stayed on the right as John McCain catapulted to the left and pandered to the Republican-bashing press. We know Bill Jones, the other likely gubernatorial aspirant, voted for McCain. This is exhibit A of Jones' dubious political and philosophical instincts. But did Mr. Simon vote for McCain?

He can't remember. But he can remember giving money to the McCain campaign. This, he emphasizes, was not an endorsement, but a gesture of good will. He hastens to add that he also gave money to George Bush.

I asked Mr. Simon if he voted for John McCain or George Bush in last year's Republican primary. I received an astonishing reply. He said that he couldn't remember.

Mr. Simon, as the *Los Angeles Times* noticed, has also given money to Democrats, including, ironically enough, Gray Davis. Willy-nilly political giving to both parties is evidence of friendship and business savvy, but not of deep conservative conviction. Could you imagine Ronald Reagan writing a check to Jimmy Carter?

Mr. Simon's political philosophy appears to be still under construction. He says that he wants to run on four issues: "education, electricity, water and transportation." The specifics of this platform are unclear, and the last two issues — water and transportation — seem like they could have been pulled out of a hat. He acknowledges that this list of issues could change before next year, but believes those four represent key "quality-of-life" matters for Californians.

Maybe so. But comments like "the roads aren't very glamorous" probably won't energize the grassroots. Strangely absent from his current program is tax cuts — one quality-of-life issue that might excite an electorate tired of bankrolling bureaucrats, layabouts, border crossers, and hack teachers.

Education and electricity should provide Mr. Simon with plenty of running room. But even here his ideas seem excessively cautious. He voted against the vouchers initiative in the last election and considers vouchers bad politics in the Golden State. "I think vouchers are a difficult concept in this state," he observes. Would his approach to education include vouchers? I asked him. He answered, "As I say, you have to be very careful about vouchers."

Asked if he would have voted for George Bush's scaled-down education bill — which most conservatives have panned as toothless and uninspired — he said "probably." Mr. Simon speaks of "reconstituting schools" and insisting upon higher "standards" and more "accountability." This is fine. But who isn't for these things? Without vouchers and a severe critique of the public school system in his plan, the difference between Governor Davis and Mr. Simon on the issue will seem maddeningly thin to conservatives.

Mr. Simon makes many laudable points about the energy crisis in the state. He rightly condemns Governor Davis for inaction and knee-jerk support for price caps. But not surprisingly, given his pragmatic streak on other issues, he isn't staunchly opposed to all price caps. He could accept short-term price caps. "We may be in a position now where we have no choice," he says.

He approaches environmental issues with

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Saracino

out doubt, one of the nicest, most decent people in politics. I do not believe that he has what it takes to defeat Gray Davis next year. Richard Riordan is another story. George Skelton, the knee-jerk ultra-liberal columnist for the *L.A. Times,* thinks Riordan is exactly what the GOP needs. Case closed — although actually the case against Riordan could go on for pages. Suffice it to say that on all but economics, he is not just a wee bit to the left of the GOP mainstream. On non-economic issues he is of the Barbara Boxer and Dianne Feinstein left. As just a *soupçon* to whet your appetite, Riordan has said that he favors citywide police sweeps to confiscate guns, shutting down all gun dealers, and that he is personally opposed to the death penalty. Chew on those morsels for a bit. This of course is what endears him to Skelton and his fellow socialists as the "ideal" Republican. And it is also what should make it impossible for him to be seriously considered by most GOP voters.

George Skelton — always a reliable indicator of the official Democrat Party line — has already devoted not one but two columns to trashing Mr. Simon. This is no accident.

But it is an injustice to Bill Simon to cast him as the lesser evil. He is much more than that. To a dispirited and dejected Party, he can bring a fresh face, fresh *conservative* approaches to issues, enthusiasm, an ability to connect with average folks, and the mother's milk of politics — money.

Mr. Simon makes clear that he is not a Steve Forbes or an Al Checchi. He cannot "self-finance" an entire $25-to-$30 million campaign. But he can, and will, invest a substantial amount of his own capital in seed money for the exploratory effort, and more as the campaign progresses. And he also intends to be an aggressive fund raiser — which is a positive for any political party and any campaign even if a candidate can totally self-fund an effort.

Having *not* spent a career in politics, Mr. Simon, on some issues, hasn't adopted positions set in concrete down to the last jot and tittle. He may — *gasp!* — depart from absolute conservative orthodoxy here or there. I would remind you that when Ronald Reagan ran for president in 1980, he was opposed by Congressman Phil Crane, who ran as the "real" conservative in the race. Reagan had, indeed, departed from absolute conservative orthodoxy on several issues while he was governor, including the not inconsequential issues of abortion and taxes. So what?

I would remind you also that the mainstream conservative movement made the conscious decision in 1999 to look for the most conservative presidential candidate *who had a chance to win,* and then unite behind that candidate. The answer was not the purest of the pure — Gary Bauer or Steve Forbes. The answer was a likable, instinctively conservative guy from Texas. That answer was the absolutely correct one given the circumstances.

The liberals in the media and the political organizations around the country knew who their enemy was in 2000, even before the conventions. Their attacks on "W" showed they believed in his conservative convictions, and that he would act on these convictions once in office. Watch carefully how the media and other members of the liberal hive treat Bill Simon. The attacks have already begun. The aforementioned George Skelton — always a reliable indicator of the official Democrat Party line — has already devoted not one but *two* columns to trashing Mr. Simon.

This is no accident. The Democrats know — even if most Republicans as yet don't —

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Neumayr

similar caution. He fails Governor Davis for not striking a "balance" between business interests and environmentalist concerns, but isn't keen on "off-shore drilling," for example. So don't expect any fiery rhetoric from him casting Governor Davis as a pawn of the pantheistic left that is largely responsible for California's energy crisis.

Playing things down the middle seems Mr. Simon's first instinct. Asked about affirmative action, he calls it a "tough" issue. Asked about immigration, he says that we should deal with "reality." Yes, he says, a significant number of illegal immigrants reside in the state, but many businesses "need" workers.

Asked if he supports the national Republican Party's platform position on abortion — that the right to life should extend to all unborn children, not just those born under favorable circumstances — he says that yes he is "pro-life," but quickly adds that he might consider "exceptions."

On the issue of judicial selections, a matter near and dear to the hearts of California conservatives disgusted with Ron George, Mr. Simon says he wouldn't use any specific litmus test to select nominees.

In short, Mr. Simon is a studiously mainstream Republican. And perhaps in a race with Bill Jones and Richard Riordan, this makes him the "conservative." Of those three candidates, Mr. Simon is, I will readily admit, the most sympathetic figure. But he is hardly the rock-solid conservative of the media's fevered imaginings.

The media will no doubt try to egg him into sanding down his positions even more. And expect them to use the tired example of Dan Lungren's defeat to convince Mr. Simon of their favorite claim, namely, that the Republican Party in California is too conservative to win. This is just a media wish presented as a prediction. The Party suffers not from too much ideology, but from too little. As Tom Campbell's forgettable run last year illustrates, the Party has utterly lost its focus. Californians will not rally to a me-too message. All that communicates is that the status quo isn't bad enough to alter.

Dan Lungren lost to Gray Davis not because he possessed Reaganite views, but because he lacked Reaganite personality. He ran a confused and defensive campaign that left voters cold. Self-hating campaigns in which candidates go to great lengths to hide their conservatism inspire no one.

I hope that Mr. Simon avoids this malaise and tightens up his positions. To command an enthusiastic following, he will need to run a campaign based on clarity, not compromise.

Saracino Responds

They say that if you live long enough you will eventually "see everything," and now I have. I finally disagree with a position taken by a writer for *Investor's Business Daily*. And even that disagreement is a tempered one.

George Neumayr gets much correct in his profile of Bill Simon. Mr. Simon is indeed, as Mr. Neumayr says, "an accomplished businessman, a good citizen, and a strong family man." There is in fact "much to commend in him," as Mr. Neumayr notes.

So what's not to like? I think it's fair to say that Mr. Neumayr's frustration with the nascent candidate can be summed up in his view that Mr. Simon is not "a passionate conservative." In my view Mr. Neumayr mistakes lack of passion for lack of conviction; understandable caution as the incipient campaign develops "one step at a time" with a dearth of commitment. Bill Simon strikes me as someone who will never be a table thumper. He seems remarkably mild mannered. But a mild demeanor doesn't mean a paucity of belief.

The one criticism that I would share is the memory lapse on his vote in last year's presidential primary. Memo to my friends running the Simon campaign: Get the candidate into the WayBack Machine with Sherman and Mr. Peabody *asap* and set the dial for March 2000. He must, repeat *must,* recall for whom he vot-

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Saracino

that Bill Simon presents the GOP with an articulate and likable conservative candidate, unburdened with a career full of political baggage. They don't like that idea one bit, so the attacks will continue. When they do, it should suggest to us that anyone who scares our opponents that much is worth serious consideration.

Bill Simon is not Ronald Reagan, but there are tantalizing similarities. The years 2001 and 2002 are not 1965 or 1966, but we have the opportunity, given just a bit of foresight and self-discipline, to move them in that direction. I went into my meeting with Bill Simon as a skeptic. I attended, frankly, mainly as a favor to a friend. I came away a believer. Simon for Governor.

Neumayr Responds

I agree: In a race with Bill Jones and Richard Riordan, William Simon is the most attractive candidate. But let's not kid ourselves. This is a minor boast — something on the order of Italy declaring military superiority to Switzerland.

Mr. Simon is the best of a bland lot, and conservative Republicans, *sans* a Chris Cox, should vote for him. But conservatives shouldn't sit at the back of the Simon campaign bus with eyes closed and mouthes shut. Conservatives should offer constructive criticism to tap the "potential" that Mr. Saracino sees in him. He will face enormous pressure from the media and liberals in the Party to run a vacuous campaign. Conservatives can serve to stiffen his spine against this trauma.

To counter conservative skepticism about him, Mr. Saracino says, "He may — gasp! — depart from absolute conservative orthodoxy here or there." I'm not sure if these departures are as trivial as Mr. Saracino suggests.

As I illustrated in my article with specifics, his agenda at this point is thin, and his grasp of significant conservative principles is underwhelming. To inspire conservatives, he will have to do more than just show them his Heritage Foundation credentials. Mr. Saracino notes that Ronald Reagan deviated from conservative positions on a few occasions as governor. Yes, he did — and he regretted that deeply. He would want Mr. Simon to learn from those mistakes, not repeat them.

Let us, by all means, seek victory intelligently. But let's not seek a hollow victory. A constant temptation for the GOP is to pursue victory at the price of principle. Even when this works — and it usually doesn't, because voters generally want leaders, not followers — it yields results that are largely meaningless. Just ask the Big Tent Republicans who lost the U.S. Senate.

I notice that the "mainstream conservative movement," even as it disparages the unsolicited liberal campaign advice of the Skeltons of the press, ends up more or less following it. Mr. Simon's plan to avoid controversial social issues is a tacit concession to the media claim that forthright pro-lifers can't win in the Golden State. The "mainstream conservative movement" is something of an oxymoron these days. It is more mainstream than conservative. "Conservatives" are often reduced simply to conserving a mainstream culture at odds with conservatism.

Let's not forget that President Bush — illustrating the dangers of "mainstream conservative" thinking — has offered a *de facto* endorsement of the decidedly liberal Riordan. And I should note another irony: Riordan was one of the Republicans who encouraged William Simon to run for governor in the first place. Were Mr. Simon as clearly conservative as some suggest, would Riordan have urged him to run? Probably not.

But who knows, maybe the emergence of Riordan as a potential primary sparring partner is precisely what Mr. Simon needs to focus his campaign and crystallize his positions. In order to defeat a high-profile moderate, he will have to state his conservatism with conviction, not conceal it under platitudes and positioning. CPR

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Saracino Responds, cont.

ed. As someone who started out a Forbes supporter and ended up voting for Bush, I frankly don't care what the answer is — McCain, Keyes, Harold Stassen as a write-in, whatever. There are defensible reasons for voting for anyone. But not remembering won't cut it.

That being said, let me go back to two of the points in my statement. First, Bill Simon is new to politics. He is a work in progress, with blank spots that need to be filled in. Much as both Mr. Neumayr and I might want it otherwise, these blank spots are not going to be filled in — at least for now — with right-wing red meat. Frankly that would be dumb politics even if it were Mr. Simon's disposition.

Rather, this non-politician is going to take the cautious approach and flesh out his positions a bit at a time as he develops a firm grasp of the issues, the nuances and complexities that are the necessary back-up and foundation of what Mr. Neumayr and I both desire — more stirring rhetoric and more focused positions.

Second, we must stop waiting for the next Ronald Reagan. Neumyer is frustrated that Mr. Simon isn't such a creature. Well I am also, realizing how much easier that "morph" would make the electoral task. But it's not going to happen, and we must stop allowing the perfect — Reagan — to be the enemy of the good — Mr. Simon, or any other instinctive conservative who doesn't measure up to the Gipper in depth of ideology or skills in communicating that ideology.

Mr. Neumayr doesn't like the fact that Mr. Simon would "probably" have voted for President Bush's education bill, which he describes as "watered down" and "toothless." Here's a question: Was it better than no bill at all or leaving the status quo? The answer is yes. The left has taken the incremental approach for the last 60 years. Can anyone dispute their effectiveness? Why do conservatives think every thing must be rolled back and solved instantly? Incrementalism is not nearly as satisfying as blockbuster, sweeping victories over your foes. But sometimes — say, when you don't control Congress — a president must settle for less. Being willing to support a small step forward — which the education bill was — or even a half step forward is a sign of political maturity, not weakness.

And speaking of political maturity, Mr. Simon is also faulted for refusing to say he would not have "litmus tests" for judicial appointees. Oh please, this is a no-brainer. Even I would say that, and my litmus paper is about as strong as anyone's. Our candidates should not be pilloried for refusing to paint a target on their chests. Again, the answer shows maturity and savvy, not weakness.

Referring to Mr. Simon's small contribution to Gray Davis, Mr. Neumayr asks: "Could you imagine Ronald Reagan writing a check to Jimmy Carter?" The answer of course is no, but let me ask another question. Could you imagine Ronald Reagan liberalizing abortion laws in California or instituting the first state withholding of income taxes? Well he did, and, to quote myself, "so what"? Those were mistakes, as Mr. Reagan later came to acknowledge and learn from. Bill Simon — again a businessman and entrepreneur, not a pol, has surely made political mis-steps in the past and will likely make more along the road. His should be no more disqualifying than Mr. Reagan's.

President Bush opposed our anti-illegal immigration Proposition 187. One of our movement's true icons — Jesse Helms — is a tobacco trade-protectionist for crying out loud. I disagree with both of those stands, but am proud to say that I happily have voted for both of those worthies.

The ultimate question, I suppose, is what you believe about a man's convictions. Bill Simon is a good, decent, instinctively conservative man. As I stated in my main article, I believe he has the potential to develop into a *very* strong candidate. That does not mean he is the perfect candidate or the perfect conservative. But he will give the GOP a candidate to believe in and be proud of and a campaign based on our fundamental beliefs to rally around. I'll buy a ticket on that bus anytime. CPR

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Death and Taxes

Benjamin Franklin, in a 1789 letter to a friend, opined "... in this world nothing is certain but death and taxes." As a pundit noted "... but death only comes once," while another added "At least there is one advantage in death: it does not get worse every time Congress meets."

Taxes have been a burden from the dawn of organized civilization, as my friend Charles Adams points out in his monumental and highly readable work, *For Good and Evil: The Impact of Taxes on the Course of Civilization.* The first civilization of which we have record was ancient Sumer in modern Iraq, 6,000 years ago. The cuneiforms on their earliest clay tablets tell of war and heavy taxation, which was unrelieved when the war ended. Everywhere "there were the tax collectors." Everything, even burial of the dead, was taxed. The cuneiform states: "You can have a Lord, you can have a King, but the man to fear is the tax collector." So it began and so it has always been.

The opposite of a 'sin tax,' the death tax punishes virtue, taxes earnings already taxed when earned, and costs as much — in enforcement and compliance expenses — as it brings in: in short, a notion so indefensible compassionate liberals can't help loving it.

BY CARL PEARLSTON

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In ancient societies, the most common taxes were those on land and its produce, head or capitation taxes, and import duties. But the mind of man is ingenious in devising ever-new incidents of human life and activity to tax. Taxes generally varied depending more on the ability of the government to make people pay than the modern concept of the ability of people to pay.

Taxes on the incident of death itself were inaugurated by Rome's first emperor, Augustus Caesar, when he imposed inheritance taxes of 5 percent on Roman citizens in order to pay for military retirements. Wives and children were exempted. Two hundred years later, Emperor Caracalla made everyone a citizen in order to increase the number of those subject to the inheritance tax, thus increasing the tax revenue. Rates were doubled and exemptions eliminated.

As Adams points out, during the Middle Ages and well into the modern age, Jews were a special target of taxes. In addition to the usual wealth taxes, head taxes, religious custom taxes, special food taxes, protection taxes, road use taxes, and various arbitrary special levies from country to country, there was commonly an estate death tax of one-fourth to one-third of the decedent estate imposed throughout Europe on the various Jewish populations up until the time of Napoleon. Non-Jews were not exempt from death taxes, but they were far less onerous; e.g. a feudal lord would receive a cow from a deceased peasant's property, while a King would get a year's income from land passing to a feudal lord.

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When the top estate tax rate was cut from 70 percent to 55 percent in 1981, charitable bequests did not decrease, as might be expected from the decreased tax-saving incentive, but increased by almost 23 percent over the following 5 years, and also increased as a share of GDP.

In the 17th century, the Dutch modeled an inheritance tax on the old Roman format, exempting wives and children, and taxing others on a sliding scale, from brothers at 5 percent to 30 percent for non-relations. The English used the same scheme in the next century to finance their resistance to the American Revolutionary War, taxing personal property bequests at 2 percent for brothers to 6 percent for non-relations. These rates were later expanded and raised by including children at 1 percent, and raising the rest proportionately to 10 percent for non-relations.

The estate tax (as distinguished from an inheritance tax on beneficiaries) had its modern beginnings with the English Stamp Act of 1694, wherein Letters Testamentary, which were issued to an Estate Executor by the Probate Court, required a government revenue stamp affixed. During the next century and a half, the government gradually increased the revenue from the stamp, and by 1881, the stamp became an estate tax fixed at 3 percent of the estate's rental value. Coverage was expanded to joint tenancies, trusts, and life estates. In 1894, faced with rising spending not matched by revenues, the government raised the estate tax to a progressive rate of one to eight percent of the actual value of the property. In four years, the receipts of this tax covered half of the increased spending, helping to solve the budget problem caused by the naval race with Germany.

Following the older English example, the new nation of the United States enacted a death stamp tax in 1797 to pay for a naval buildup in response to tensions with France. The tax was abolished in 1802. In 1862, the tax was reenacted to raise revenue for the Civil War, and was repealed in 1870.

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Again, in 1898 Congress reimposed a death tax to finance the Spanish American War. That tax was abolished in 1902. Thus, the historical example was clear that, in the United States, death or estate taxes were enacted to finance wars and were abolished when the war and its need for extra revenue was over.

But that was not the case in 1916 when the estate tax was reintroduced, for it has been with us ever since, with the express purpose of breaking up large concentrations of wealth. When introduced, estates more than $50,000 were covered (equivalent to $720,000 today with the shrinking value of the dollar), and the top rate was 10 percent. When it became evident that most people were giving away their assets during their lives to avoid the estate tax, a gift tax was enacted in 1924. Since 1976, the estate and gift taxes have been unified into one tax system, so that giving money away beyond the exemption of $10,000 per recipient fails to evade the tax. In 1926, the top estate rate was doubled to 20 percent, and in 1942 it went to 77 percent. Presently the rate ranges from 37 percent for assets more than $675,000 (scheduled to increase to $1 million in 2006) to 55 percent for estates more than $3 million. There is no federal inheritance tax, and 20 states, including California, have repealed their inheritance tax since 1980.

Neither our neighbor to the north (Canada) or to the south (Mexico) has an estate or inheritance tax, nor does Australia. Most of the industrialized nations have inheritance taxes, with rates ranging from a low of 15 percent for Austria and Denmark, 20 percent for Turkey, 30 percent for Belgium and Sweden, to 35 percent for Germany and 70 percent for Japan. Switzerland's estate tax rate is 6 percent, while Italy's is 27 percent. But when exemptions are considered the effective tax rates shrink. With comparable estate dispositions, rates are around 10 percent in Germany and 30 percent in Japan, compared to 44 percent in the United States.

The estate tax covers some 43,000 persons and generates about 1.3 percent of the total federal revenues. This figure has historically been near or less than 2 percent. A most interesting fact about the revenue is that it is about balanced by the money spent to enforce and avoid the tax. Compliance and enforcement are estimated to take 65 cents out of every dollar of tax collected. Tax planning by a veritable army of tax and estate lawyers, accountants, financial advisers, and insurance companies that sell policies specifically to pay estate taxes, is a multi-billion dollar-a-year industry, creating and perpetuating fictitious legal entities for the sole purpose of avoiding the death tax. This vast army exists solely by virtue of its vested interest in the present system, and is therefore opposed to any reduction or repeal of the tax.

One rationale given for the tax is that only the very rich pay it, but in actuality, as cogently stated in a recent study by economists Aaron and Munnell, "[estate taxes are] penalties imposed on those who neglect to plan ahead or who retain unskilled estate planners." Use of life insurance trusts, qualified personal residence trusts, charitable remainder trusts, charitable lead trusts, family limited partnerships, foundations, and other tools of the estate planner minimize any estate tax paid by the wealthy. The well-attended lecture circuit is full of clever and successful promoters of schemes to avoid the estate tax. Those schemes work for the wealthy, as shown by the fact that more than half of the estate tax revenue comes from estates less than $5 million.

The debilitating effects of the estate tax on small businesses was illustrated in a study of 365 family-owned and operated businesses in upstate New York. They spent an average of $124,000 in planning to avoid the estate tax, and an average of $55,000 in tax. This translates, for the 365 businesses involved, to roughly 5,000 jobs that could have been created by the money spent on the tax planning and payment. One-third of the businesses indicated they would be forced to liquidate all or part of their business to pay the tax. Nationally, 70 percent of families cash out or abandon their business after just one generation; only 13 percent make it to the third generation. Required payment of estate tax is a large factor in this turnover. In a national survey, 51 percent of small businesses, 58 percent of minority-owned businesses, and 37 percent of family farms indicated they would have significant difficulty surviving in the event of the principal owner's death. Only 10 percent indicated that the estate tax would have no effect.

One of the prime rationales for the estate tax has been the redistribution of assets and prevention of great inherited wealth. One has only to consider the continuing great wealthy families like the Kennedys, the Rockefellers, the Fords, etc., to realize

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that astute financial planning makes this objective unobtainable. Inherited wealth still accounts for a significant 41 percent of the Forbes 400 list of the most wealthy. While the third plank of the *Communist Manifesto* was abolition of the right of inheritance, most Americans believe it is not immoral but right to want to leave their property to their children. Billionaires Warren Buffet and Bill Gates may give their money to charity in the belief their children will be better off not burdened by too much money, but most Americans work and save to make things better for their children, not the government or charities. Polls repeatedly show that Americans overwhelmingly (77 percent) reject the idea of discouraging inherited wealth, and by a similar margin (69 percent) believe the estate tax is unfair, even though very few will ever pay the tax. They would agree with Oprah Winfrey when she said "I think it's so irritating that once I die, 55 percent of my money goes to the United States government — You know why that's so irritating? Because you already paid nearly 50 percent [when the money was earned.]"

Proponents of the estate tax fear reductions in charitable bequests of 25-45 percent if it were reduced or repealed, since property given to charity is exempted from the tax. Recent research indicates that the charitable tax deduction exerts only a modest stimulative effect on charitable giving, with less than 2 percent of charitable groups' total revenues coming from bequests. According to IRS data, only 18 percent of estates make charitable bequests. Even among estates more than $20 million, 49 percent do not claim a charitable deduction. The wealthiest 0.3 percent account for more than 80 percent of the charitable bequests. Since charitable gifts are deductible for income tax purposes, one may save more by gifts during life than at death. Some will choose to give during life to take advantage of tax benefits in the income tax laws; others will choose to hold on to their wealth and give it at death. But the tax incentives do not seem to alter the total amount of charitable giving during the person's lifetime; taxes may affect the timing of the donation, but not the amount. When the top estate tax rate was cut from 70 percent to 55 percent in 1981, charitable bequests did not decrease, as might be expected from the decreased tax-saving incentive, but increased by almost 23 percent over the following 5 years, and also increased as a share of GDP.

Americans reject the idea of discouraging inherited wealth and believe the estate tax is unfair.

Self-described liberal law professor Edward McCaffery argues that the estate tax undermines the concept of fairness and equality championed by the liberal progressive movement: "The estate tax discourages behavior that a liberal, democratic society ought to like — work, savings, bequests — and encourages behavior that such a society ought to suspect — the large-scale consumption, leisure, and *inter vivos* [while still alive] giving of the very rich. Our polls and practices show that we like sin taxes, such as on alcohol and cigarettes. The estate tax is an anti-sin, or a virtue, tax. It is a tax on work and savings without consumption, on thrift, on long-term savings. There is no reason even a liberal populace need support it."

Congress has acted twice before in the past two years by large bipartisan margins to repeal the estate tax, citing the concerns mentioned above over low revenue from the tax, excessive costs of compliance and avoidance, harmful effects on small businesses and family farms, loss of jobs and economic opportunity, and the basic perceived unfairness of taxing at death assets which have already been taxed when earned. This year's recently-passed tax bill repeals the estate tax in gradual stages by raising the exemption each year until the tax is finished in 2010.

Some heirs could actually be worse off, however. Under the estate tax, heirs inherit property at the current market value and tax is paid on the total value *minus the $675,000 exemption (which will, as noted above, become $1 million in 2006).* But after repeal takes effect, heirs will be forced to pay capital gains taxes on any appreciation over what the deceased paid for inherited property if the heirs sell it. In other words, an heir to a house that was bought 10 or 20 years earlier for, say, $100,000, who sells it upon inheritance for, say, $250,000, would have to pay capitol gains tax on the $150,000 "step-up" in value. Under the old law, given the exemption, no tax would have been due at all. And this will create a real burden in record keeping for all estate planners, no doubt fostering some very imaginative creating of records. Also, wills and trusts that create a marital deduction trust may need to be examined because of the graduated nature of the changing exemption, which sets the value of such trusts. Finally, the whole repeal law is temporary: 10 years after it takes effect, it must be passed again or the tax will be reimposed.

So, contrary to the hopes aroused by a direct repeal, there will still be plenty of work for the tax lawyers, accountants, and estate planners. CPR

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CRITICUS

The Bearable Lightness of Verse

BY G.B. TENNYSON

IT IS NOW customary to observe for the deceased, not a funeral, but something called a "Celebration of Life." The idea is that drear and mournful funerals have given way to joyous remembrances of all the positive things that characterized the departed. Criticus has even been involved in some of these, both as member of the congregation and as contributor to the encomia that constitute such "celebrations." Historically, remarks praising the dead were confined to the eulogy portion of an otherwise formal and somber service. Then afterwards there would be a reception, even a party perhaps, all very much like the pattern for a Christening and a wedding. A Critical colleague years back left specific instructions and funds for such a party for his co-workers, which was much appreciated as he also stipulated quality scotch. (Criticus is going to leave funds for 25-year old Macallan.) The Irish famously held the party all night long at the side of the deceased, that is, the wake, but of course they did eventually stagger to the funeral, presumably now absolutely certain that old Paddy was truly dead. But the somber funeral remained essential.

Now the eulogy has become a "celebration" and has virtually displaced the funeral, so that the proceedings sound like the ads for Forest Lawn that tell us how the "mourners" of some fictional friend held a hoe-down or a jazz festival or a bingo game to celebrate the life of the late so-and-so who so loved hoe-downs, etc. Soon there will be a celebration of life featuring the dead man's favorite porno films, it being harder and harder these days to get the unchurched into the chapel. The multitude will shrug and say *autres temps, autres moeurs.*

Well, in the spirit of the older forms, Criticus has come both to mourn and to celebrate the passing of an old friend, albeit not a human one. In fact, Criticus may even be asking, is this old friend really dead or does it but slumber? The old friend is that modest but precious flower in the garden of poetry — light verse. Like the shrinking violet, the humble pansy, the wayward woodbine, the lowly buttercup, light verse does not command the attention and respect of those showier blooms, the epic sunflower, the lovely rose, the narrative tulip, the dramatic bougainvillea. But light verse has its beauty and its honor and we are the poorer without it.

G.B. Tennyson taught for many years the only course in comic poetry ever offered at UCLA before or since. He is the author of a monograph that touches on matters discussed in this column, Literary Language: Strangeness and the Poetics of Inadvertence *(1991).*

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First, however, it is necessary to concede that light verse is so elusive a flower that there is no entirely satisfactory definition of it. *The Princeton Encyclopedia of Poetry and Poetics* grudgingly gives it only one and a half pages, as compared to seven for love poetry, seven and a half for dramatic poetry, and a whopping thirteen for epic poetry. In the small space devoted to light verse, the encyclopedia allows that precision in these matters is hard to come by, that originally the term meant almost solely *vers de société* but that it has come to include "folk poetry, nonsense poetry, ribald verse, comic poems, and kitsch." Of these, only nonsense verse has its own separate entry in the encyclopedia, and the use of the word *kitsch* in this context is not further clarified. Presumably it means bad verse, from the German for trashy, vulgar, would-be works of art, such as kewpie dolls or pink flamingos or garden gnomes, but here applied to literature. Criticus will return to this topic later, as it is one of his favorites.

By way of broader definition, however, Constant Readers can fix upon a distillation (by Criticus) of the encyclopedia discussion, which comes down to mean humorous verse, virtually always regularly metrical and rhyming, that treats everyday life, from the socially elevated to the commonplace, from politics to picket fences. *Vers de société,* or society verse, is polished and witty verse about the habits and foibles of polite society. It flourished in the nineteenth century and has in our time gone the way of polite society itself, but light verse about other areas and aspects of life enjoyed a rather longer run, until well into the twentieth century, with stray blooms still popping up. If it is not entirely dead, it is certainly moribund. Criticus places the beginning of its terminal illness at about the same time as the death of popular music ("standards, swing, and big bands too," as the dying Los Angeles radio station phrases it) and the death of the Broadway musical, for lyricists from Irving Berlin and Ira Gershwin to Cole Porter and Noel Coward can be counted as writing light verse. Think of "Mad Dogs and Englishmen" simply as spoken verse, which is essentially the way Coward "sings" it, and it sounds more like Traill, Graham, Belloc, and Chesterton than like operatic lyrics, to say nothing of the willful and repellent antilyrics of rock and rap.

"Traill?" you ask. "Graham?" Yes, these Victorian and Edwardian light-versifiers were notabilities in their day, and even now Belloc and Chesterton, at least, have not been entirely forgotten. Traill and Graham, and many others, are another matter, but here, from *Recaptured Rhymes,* is a snippet from H.D. Traill (1842-1900) on a still relevant topic, "What Shall We Think of the Kurds?"

Worshipful Patrons of "young nationalities,"
  Ardent promoters of "movements of race,"
Learned in Destinies, Forces, Fatalities,
  Help us to settle a troublesome case.
    For proper bestowing
    Of sympathies glowing
  We feel a solicitude stronger than words;
    So, please, a suggestion
    For solving the question
  Of what should be thought of the Kurds.

Five more stanzas conclude that the Turks are "unspeakable," the Persians "cruel," but the Kurds not much better.

  [So] would it be moral,
  In view of this quarrel,
Impartial dislike to distribute in thirds:
  Two parts of aversion
  For Turk and for Persian,
Remainder reserved for the Kurds?

And that from 1880.

Harry Graham (1874-1936), who also wrote under the jocular name of Col. D. Streamer ("Coldstreamer"?), was best known for his *Ruthless Rhymes,* his *Misrepresentative Men,* and his *Perverted Proverbs*. The enjoyment of any of these requires a sometimes fiendish sense of humor. Herewith some ruthless examples:

Mr. Jones

"There's been an accident," they said
"Your servant's cut in half; he's dead!"
"Indeed," said Mr. Jones, "and please,
Send me the half that's got my keys."

Necessity

Late last night I killed my wife,
  Stretched her on the parquet flooring;
I was loath to take her life,
  But I *had* to stop her snoring!

Among his "Misrepresentative Men" Graham even saw fit to include such worthies as the American Joseph Smith of Salt Lake City. Too long to quote in full here, its flavor is indicated by the opening verses:

Though to the ordinary mind,
  The weight of marriage ties is such
That many mere, male, mortals find
  One wife enough, — if not too much;

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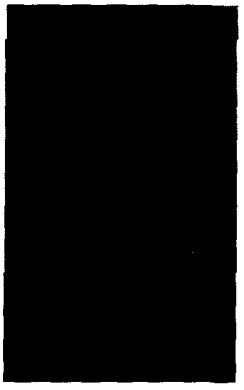
I see no reason to abuse
A person holding other views.

Though most of us, at any rate,
Have not acquired the plural habits
Which we are apt to delegate
To Eastern potentates, — or rabbits;
We should regard with open mind
The more uxoriously inclined.

He goes on in detail about the challenges of having five wives and 50 children as had Joseph Smith — one such challenge being that one will also therefore have five mothers-in-law — and concludes that for his part

Some middle course would I explore;
Incur a merely dual bond;
One wife, brunette, to scrub the floor,
And one for outdoor use, a blonde;
Thus happily could I exist,
A moral Mormonogamist!



Lord Byron

As even these few samples indicate, *light verse can carry an underlying weightier meaning.* This may be why such verse has attracted the attention of some very serious poets and authors. Poet W.H. Auden edited the *Oxford Book of Light Verse* in 1938, and forty years later novelist Kingsley Amis edited the *New Oxford Book of English Light Verse.* The addition of "English" to the title does not mean that the collection excludes Americans, for it includes some; but it is the case that light versifying has prospered rather more across the water than on this side of it. There is, to be sure, an *Oxford Book of American Light Verse* edited by William Harmon (1979), whose aim in part was to redress the imbalance in other light verse collections that are so heavily British in content. In order to realize this aim, however, Harmon has lamely included poems that are not so much light verse as merely popular verse — "Paul Revere's Ride," "The Village Blacksmith," "Barbara Frietchie," "The Bells," even "A Visit from St. Nicholas," and "Casey at the Bat."

THE FACT is, however, that with a few exceptions like Mark Twain and Bret Harte, Americans did not really take to light verse until the twentieth century. Even then, only a few equal the best of the British. Dorothy Parker is certainly one, as are also Ogden Nash and Richard Armour (*this last, alas, not* included in Harmon) and the Broadway lyricists mentioned above. It probably has something to do with the fact that the *vers de société* tradition never really existed in America, so that the elements of wit and polish were absent and their place in the nineteenth century was filled by the tall tale and frontier humor. Not that some of us do not still enjoy, say, a Bret Harte speaking blithely of "the heathen Chinee." But the more urban and urbane twentieth-century American light versifiers do bring us back to something closer to the British style. Still, the stream seems to run dry in the latter part of the twentieth century, and for most of his examples after mid-century Harmon is reduced to including the rueful, confessional, often rhymeless sort of poem that appears in college literary magazines. Put another way, it is prose divided up into short lines, the result being almost always gormless (Brit-speak for clueless and stupid).

One area in which Americans hold their own is that of bad poetry, or I should say, "good bad poetry," following the usage of D.B. Wyndham Lewis and Charles Lee in their glorious "anthology of bad verse," *The Stuffed Owl* (1930). Their examples come almost as readily from the works of established great poets as from the works of mere poetasters and would-be poets, and all are pre-twentieth century. Thus Dryden, Wordsworth, Emerson, and Poe are represented, and the last entries are from the Victorian Poet Laureate, Alfred Tennyson, who managed to write in exhorting riflemen to fire: "Look to your butts, and take good aims!" Wordsworth weighs in with: "This piteous news so much it shocked her, / She quite forgot to send the Doctor."

But, of course, the best bad verse comes most often from poets of the second rank or of no rank at all, including the ever fecund "Anonymous" and other unnamed versifiers, such as one they call "A Babu Poet" (meaning from India), writing on the death of Queen Victoria: "Dust to dust, and ashes to ashes, / Into the tomb the Great Queen dashes." And "Author Unknown" who wrote of a dying Gypsy girl: "There we leave her, / There we leave her, / Far from where her swarthy kindred roam, / In the Scarlet Fever, / Scarlet Fever, / Scarlet Fever Convalescent Home." "Unknown" also composed the following: "O never, never she'll forget / The happy, happy day / When in the church, before God's priest, / She gave herself away."

It is in this company that several American versifiers shine. The best known bad American poet is Julia

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Moore (1847-1920), the "Sweet Singer of Michigan," who did not realize that Mark Twain's praise for her poetry was entirely tongue-in-cheek and who was therefore emboldened to publish yet more. Her "Ashtabula Disaster" is a classic example of her style. The first stanza and chorus give illustration enough:

Have you heard of the dreadful fate
Of Mr. P.P. Bliss and wife?
Of their death I will relate
And also others lost their life;
Ashtabula bridge disaster,
Where so many people died
Without a thought that destruction
Would plunge them 'neath the wheel of tide.

Swiftly
passed the engine's call,
Hastening souls on to death,
Warning not one of them all;
It brought despair right and left.

Julia Moore

The character of "Lord Byron"
Was of a low degree
Caused by his reckless conduct,
And bad company.
He sprung from an ancient house
Noble, but poor, indeed.
His career on earth, was marred
By his own misdeeds.

J. Gordon Coogler

Thou immortal Byron!
Thy inspired genius
Let no man attempt to smother —
May all that was good within thee
Be attributed to Heaven,
All that was evil — to thy mother.

A contemporary of Julia Moore's, and one with a much surer grip on rhyme and meter, was Ella Wheeler Wilcox (1850-1919). Her specialty was moral admonition and exhortation.

And he held me fast, and he said "At last
I claim thee as mine — all mine."
But I turned my face from love's embrace,
For the dew on his lips was *wine.*

She went to the western front in the Great War and read to the soldiers encouraging sentiments such as these lines from the poem "Come Back Clean," a verse appeal to American doughboys not to yield to base temptation while fighting in foreign fields. She offers a song for "a soldier to sing" to himself which includes the following stirring lines:

"I may lie in the mud of the trenches,
I may reek with blood and mire
But I will control by the God in my soul,
The might of my man's desire.
I will fight my foe in the open,
But my sword shall be sharp and keen
For the foe within who would lure me to sin,
And I will come back clean."

Tell that to the Marines.

Similar moral uplift can be found at the same time in the poems of the Irish woman Amanda McKittrick Ros (1860-1939), who was also a magnificently bad novelist. C.S. Lewis and the Inklings used to read aloud passages from Ros's novels (*Irene Iddesleigh* was a favorite) and collapse with laughter. Ros visited Westminster Abbey and wrote a poem on the tombs there which begins with some verve: "Holy Moses! Have a look! / Flesh decayed in every nook!"

Back in America two rivals to Julia Moore claim attention. One is the Carolina poet J. Gordon Coogler (1865-1901). He it was who wrote in all seriousness "Alas for the South — her books have grown fewer / She was never much given to literature." Like Moore, Coogler wrote a poem to Lord Byron. A stanza from each poses the difficult question of which is worse (see box, above).

North Carolina's answer to South Carolina's Coogler is Mattie J. Peterson (1866-1906 or 1866-1947 — sources vary). She actually aspired to novel writing and published one such called *Little Pansy.* Appended to the work were eleven poems from her hand that constitute her claim to bad poetry fame. Of these poems, her premier composition is a poem titled "I Kissed Pa Twice after His Death," which begins,

I kissed dear Pa at the grave
Then soon he was buried away

This is awkward enough but eclipsed by the more melodious beginning of a later stanza in the same poem:

I saw Pa coming, stepping high,
Which was of his walk the way.

Those two lines are so winningly awful that they could be the beginning of a primer of how to write good bad verse.

The British struck back with the work of the Scottish poet William McGonagall (1830-1902), who is generally regarded as the best bad poet of them all. This estimate probably stems from the fact that he wrote so much as well as so badly, for Criti-

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cus actually inclines towards Mattie Peterson and can only wish she had written more. McGonagall's three volumes of *Poetic Gems, More Poetic Gems,* and *Last Poetic Gems* amount to more than 550 pages. His best known poem is "The Tay Bridge Disaster," which calls to mind Julia Moore's comparable verse on the "Ashtabula Disaster." Here is the opening of McGonagall's disaster poem:

Beautiful Railway Bridge of the Silv'ry Tay!
Alas! I am very sorry to say
That ninety lives have been taken away
On the last Sabbath day of 1879,
Which will be remember'd for a very long time.

In a curious twist of fate the only reason we remember the Tay Bridge disaster is McGonagall's execrable poem.

BY THE time we reach McGonagall the absence of any sense of meter or rhyme has become total, though it's a nice question as to who has the worst ear — Moore, Coogler, Peterson, or McGonagall. With many of the bad poets what confronts us is a kind of unselfconscious, unintentional anti-poetry which by its nature points to the role of rhyme and meter in true poetry and especially in light verse. This in turn helps to explain why light verse and even bad verse is in such decline today. Rhyme and meter are out of favor, and poetry of almost any kind is scarcely studied at an early enough age to imprint the necessary sense of rhythm on the mind. It is not unlike the study of a foreign language. There is a point after which it is impossible for most people to reproduce the sounds of a foreign tongue without accent. It is revealing, then, though inadvertently so, that McGonagall in his autobiographical writings stated that "the most startling incident in my life was the time I discovered myself to be a poet, which was in the year 1877." By then he was 47. Too late.

Perhaps it was always too late for the bad poets, who probably had tin ears from birth, but we can see them straining to reach a rhyme, usually letting sense and syntax go by the board as they do so. Still, their very straining signifies an aspiration, however forlorn, towards something higher. We enjoy their blunders because we instinctively measure them against the standard. These are the only grounds on which Criticus can imagine enjoying modern art, that is, as mostly inadvertently funny, but that's another story.

The something higher is, of course, genuinely accomplished light verse. There are still some islands of it today, which is why Criticus offered the hope that perhaps it is not dead, only sleeping. W. H. von Dreele continues to offer short, well-crafted verses on political topics in *National Review,* though fewer than he used to. Stephen Sondheim continues to produce complex and sophisticated lyrics. The *Spectator* magazine frequently sets contests involving the writing of light verse and gets some very clever entries. Criticus does not try to enter these, not least because the time-delay in seeing the publication renders entry impossible. But a few years back for his own private amusement Criticus took up the challenge of one such contest.

Now from the privileged position of his own column, Criticus offers the results, if for no other purpose than to show that light verse, and nonsense light verse at that, still lives, or possibly just gasps for breath, doing so in two languages and on the improbable subject of picket fences. The original contest statement appears in the box nearby. The Critical rendition follows here:

The Picket Fence

Once there was a picket fence;
The spacing went from hence to whence.

Der Lattenzaun

Printed below is a poem of this title by Christian Morgenstern. You are invited to supply a verse translation, close or loose.

Es war einmal ein Lattenzaun
mit Zwischenraum, hindurchzuschaun.

Ein Architekt, der dieses sah,
stand eines Abends plötzlich da-

und nahm den Zwischenraum heraus
und baute draus ein grosses Haus.

Der Zaun indessen stand ganz dumm,
mit Latten ohne was herum,

Ein Anblick grässlich und gemein.
Drum zog ihn der Senat auch ein.

Der Architekt jedoch entfloh
Nach Afri- od- Ameriko.

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An architect who spotted this
Said, 'Something here is sore amiss.'

He took the spaces in between
And built a house fit for a queen.

The fence meanwhile stood stupefied,
Its pickets had no more inside.

It was a sight that shocked the town.
The Council said, 'We'll tear it down.'

The architect, however, fled
And set up shop elsewhere instead.

The reader can judge whether this constitutes a funeral or a celebration of life. CPR

FILM

The Sound Of Music

A Summer Serenade

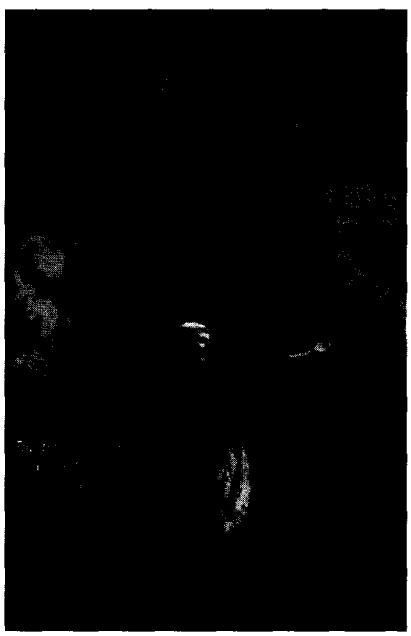
BY JAMES BEMIS

No more school, no more books, no more teacher's dirty looks.

Summertime for families means free time — time for outdoor activities, reading fun books, taking vacations. It also means plenty of time for watching movies. But this year's crop of movies seems the worst in memory — it's increasingly hard to find a single new film worth seeing. Nowadays, most pose slight variations on the "stupid teen" stereotype: Mindless drudges with small intellects and large libidos in search of bodily pleasures. How noble! How inspiring! In Hollywood, this is known as exercising "artistic freedom."

Aren't there any good summertime movies available?

Well, maybe it's time to rediscover some of the old classics. For this time of year, one film that well repays a second look is *The Sound of Music,* the ultimate summer family film, artfully combining great music with beautiful cinematography. It also features a story that celebrates marriage, family, friendship, courage, and a clearly-drawn battle between good and evil. And, unlike most films these days, religion is treated respectfully, even lovingly.



As the film opens in pre-World War II Austria, Maria (played by youthful, radiant Julie Andrews), a postulant in a Salzburg Abbey, is distracted from her religious duties by the majestic Alpine landscape and her own spirited personality. She's sent to become governess for the seven rambunctious von Trapp children, who are educated with military discipline by their widowed father, Captain Georg von Trapp (Christopher Plummer).

Maria soon wins the children over with her warmth and kindness. She sews them clothes from curtain cloth, takes them for picnics in the countryside, and teaches them to sing, to which they respond with happiness and laughter. Eventually the Captain is also charmed by Maria's contagious personality. One night, he throws a party to introduce his fiancée, the Baroness Schraeder

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CPR *film critic James Bemis is a member of* California Political Review's *editorial board. His weekly column appears on* California Political Review Online (*www.cppf.org*). *He is also a columnist for e3mil.com's "The Edge."*

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(matronly Eleanor Parker). During the party, as the Captain and Maria dance, they realize they've fallen in love. Confused by these new emotions, Maria is convinced by the Baroness to leave the Trapp villa and return to the Abbey.

THOUGH THE Baroness tries to win the children's affections, they are inconsolable without Maria. After confiding her newfound love to the Mother Abbess (Peggy Wood), Maria returns to the von Trapp villa just as the Captain is about to be married. The Baroness, finally unable to deny the Captain's true feelings, gracefully bows out. The Captain and Maria are soon married.

But Adolph Hitler's coming to power and the looming cataclysm of war precluded what otherwise might have been a simple storybook ending at this point for the von Trapps. When the Captain and Maria return from their honeymoon, the Captain finds he has been called into military service by the German army — a service he has no intention of performing.

The balance of the film recounts the family's ordeal contending with the tyrannical invaders occupying their homeland. An inspiring tale of adventure and powerful emotion, it includes one of the cinema's most moving moments when the Captain, under the Nazi's watchful eyes, sings the Austrian ballad "Edelweiss," his favorite song as a youth, at the Salzburg Folk Music Festival. Halfway through the song, his voice breaking with emotion, he appears unable to continue. But first Maria, then the children, and finally the entire festival audience join him in singing the beautiful patriotic song. A shattering contrast is revealed between the transcendent power of the human spirit evident in the simple, spontanious singing and the pathetic, brutish, destructive "power" of the Nazi faith, represented by the furtive, slightly lost-looking soldiers and officers.

The movie soars on Julie Andrew's radiant portrayal of Maria.

Combining a perky, energetic acting performance with one of Hollywood's most versatile and glorious singing voices, Andrews matches her marvelous performance in *Mary Poppins,* another of Hollywood's best family films. Providing a needed counterpoint to Andrew's bouyancy is Plummer's strong performance as Captain von Trapp. Regarded as one of the foremost Shakespearean actors at the time this film was made, Plummer portrays the captain with a dashing, aristocratic flair. Some critics, missing the point, lamented his acting as mechanical and stiff. But beside Andrews, Plummer's edginess gives the film added depth and a healthy dose of masculinity.

The soundtrack, which has sold more than 10 million units, is particularly noteworthy. Written at a time when Broadway musicals were among American culture's greatest gifts to the world (whatever happened to the great Broadway musical, by the way?), the songwriting team of Richard Rodgers and Oscar Hammerstein II were second to none. Their successful musicals included *Oklahoma!, Carousel, State Fair, South Pacific, The King and I,* and *Flower Drum Song.* But for many of us, their best work is *The Sound of Music.*

At least three songs — "Do-Re-Mi," "My Favorite Things," and "Climb Every Mountain" — are now pop standards, covered by hundreds of artists. Besides these classics, the film contains a number of other fine songs, including the bouncy "Lonely Goatherd," the moving "Edelweiss," and the memorable title song. Only one song, the Captain and Maria's "Something Good," seems a throw-in, falling far below the others in quality.

ALTHOUGH LOVED by millions, the film is not without its detractors. Critical comments generally center on the movie's unabashed sweetness and "simplistic" notions about good and evil. Noted *New Yorker* film critic Pauline Kael was typical, complaining about the "sickly, goody-goody songs" and the movie's "shrewdly calculated" message.

Most parents today, though, would gladly accept *The Sound of Music's* vices in exchange for all the virtues in this summer's Hollywood offerings. CPR

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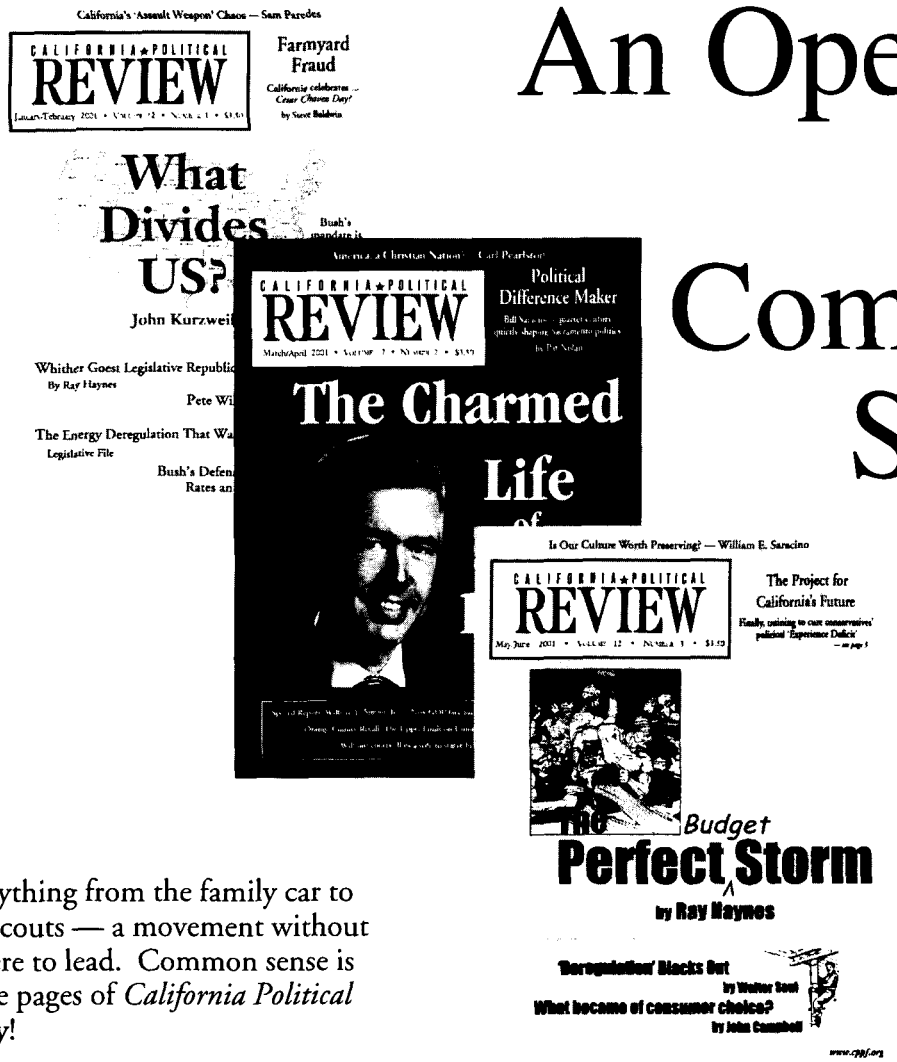
An Opening for Common Sense



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— Irving Kristol

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